

## **BYRAM TOWNSHIP COUNCIL MEETING - MARCH 20, 2012**

### **CALL MEETING TO ORDER**

Mayor Oscovitch called the meeting to order at 7:00 p.m.

### **OPEN PUBLIC MEETING STATEMENT**

Adequate notice of this meeting has been made in accordance with the Open Public Meetings Act, NJSA 10:4-6.

### **FLAG SALUTE AND MOMENT OF SILENCE**

### **ROLL CALL**

Councilman Luaces, here; Councilwoman Raffay, here; Councilman Olson, here; Councilwoman Kash, here; Mayor Oscovitch; here. Township Manager Joe Sabatini and Municipal Clerk Doris Flynn were also present.

**APPROVAL OF AGENDA** - Motion by Councilman Olson, seconded by Councilwoman Raffay to approve the agenda as presented. All members were in favor. Motion carried.

### **SPECIAL GUEST** – Tammy Quasius – MS Awareness

*"Last week was MS Awareness week and Mayor Oscovitch graciously invited me to come and share a little of what I know about MS. MS is an autoimmune disease, where the body forms antibodies and attacks the covering of nerve cells. This can happen anywhere in the CNS so the symptoms a person experiences will depend on what nerves are being attacked. People with MS can have motor or sensory problems, fatigue, depression, blindness even cognitive decline. Most people think of someone with MS as only having physical impairments...most people are surprised to discover that I've been living with MS for 9 years now. I have some sensory problems, fatigue and cognitive issues but my symptoms aren't outwardly obvious to anyone. However, they have affected my professional and personal life. I'm fortunate in that I haven't progressed rapidly...I've been very stable for about 6 years...even stopped disease modifying injections for 2 ½ years. Unfortunately on March 1<sup>st</sup> I got the news that my most recent MRI showed 2 new spots in my brain...the nerves in my brain are being attacked as we speak.*

*So it's important to me to change the perception of what it means to live with MS. It's important to do that to raise awareness of the needs and struggles, as well as the determination and abilities of the MS population. It's important to do that here in our community but also on a national scale. I had the privilege of going to Washington DC 2 weeks ago, to represent over 10,000 people living with MS from our local chapter of the NMSS, at the annual PPC. I got to speak with members of congress and their staff regarding the importance of funding for medical research and the need for respite services available to caretakers for all adult onset disability. I got to meet others living with MS who have influenced legislation and changed policies to make my future more optimistic...people who have overcome enormous hurdles with few available services, then worked tirelessly to make sure people like me would have access to the support they lacked. It was my 3<sup>rd</sup> PPC...each one more humbling inspirational and motivating than the next. Being involved as an activist has made my having MS purposeful...*

*The future does look bright for those of us dealing with MS...we now have more treatment options to help slow or delay progression of disease with new drugs right around the corner; we have better access to services and programs; we even have a new MS task force being assembled here in NJ to better understand the needs of the MS community. We have reason to hope for a future without MS. While I learned a lot about my disease, my experience in Washington also taught me not to underestimate the importance of using my voice. You are here because you feel strongly about being involved. Our ability to respectfully advocate for things that matter should never be taken for granted. I've been cursed with a disease but blessed with the opportunity to inform, educate and advocate for change. I encourage you to stay active and respectful in your efforts...it's the only way we can really make progress.*

*I thank you for your time and attention, for your service to our community and invite you to please join the movement to help us achieve a world without MS."*

The Mayor read the Proclamation that the Council adopted at the last meeting proclaiming March 12-16 MS Awareness Week in Byram and thanked Tammy for taking the time to come to the Council meeting to speak about MS.

## **TOWNSHIP REPORTS**

### **Manager's Report**

#### **Meeting with Highlands Council for March 22 – 10:00 AM:**

- A meeting has been scheduled with the Highlands Council for March 22 to review the proposal for the Tamarack Park - Jones Lane Recreation Area (athletic fields development and wetlands buffers)

#### **Wastewater Management Plan (WMP):**

- The Sussex County Freeholders held a public meeting on the proposed Sussex County Water Quality Management Plan to include the Township's waste water management plan on February 22, 2012.
- The public hearing was followed by a 15 day comment period, and no public comments were received.
- There will be a final approval resolution on the agenda of the Sussex County Freeholders on March 28, 2012.

#### **East Brookwood Park:**

- At the March 15, 2012 meeting of the Planning Board, the board completed a courtesy review for the installation of the Brookwood Park fence improvements. This was done as a review of capital project.
- The review was suggested, since the proposed fencing conflicted with Chapter 240-24 entitled Fences of the Township's Zoning Ordinance.
- The Board recommended the Council support the fence improvements and also suggested the basketball posts and backboards be removed.
- The Mayor and Council has already supported allowing the East Brookwood Estates Property Owners Association to have a 40 foot square fenced area around the well and to permit the association to control the fenced area by locking the gate. This was memorialized in Resolution 154-2010.
- The work for the park improvements is being funded through a 2011 Recreational Trails grant program through the NJ DEP.

#### **Budget Hearing:**

- A Hearing on the 2012 Municipal Budget and adoption by the Mayor and Council is currently scheduled for Tuesday, April 3 at 7:00.

#### **Councilman Luaces**

- Attended the PAC meeting at the Freeholder's room on March 8. They discussed the different aquifers in the county correlated to water tables. Dr. Montgomery was one of the speakers, who actually was one of Carlos' professors in college. He discussed some future projects with him.
- On March 15<sup>th</sup> he attended the ribbon cutting ceremony at remodeled MacDonalds in the Byram Plaza.
- The next Recreation Committee meeting is on March 21<sup>st</sup> at 7:30 p.m.
- The Byram Day Committee will meet next on Monday, March 26<sup>th</sup> at 7:30 p.m.
- Board of Health meeting is on Tuesday, March 27<sup>th</sup> at 7:30 p.m.

#### **Councilwoman Marie Raffay**

##### **Planning Board –**

- The last Planning Board meeting was on March 15 and was mostly a work session. There was a courtesy review of the fence that will be going up around the well at East Brookwood Park.
- The board discussed writing a solar ordinance to address an increase in solar panels throughout the town. The MLUL encourages it so the board will be collecting some preliminary wording and then present the ideas to the council.
- Work is continuing on a soil importation ordinance and the committee working on it met with someone from the EC about it.
- The next meeting will be on Thursday, April 5 at 8pm. The CVS at Barone's application is on the agenda.

##### **Camping in the Park**

- We have a confirmed date of June 8 for family camping at the Jones Lane field off of Route 206 north of Cranberry Lake. This is a different date than the original one.

##### **Sign Ordinance**

- We are planning a meeting next week to finish up the sign ordinance.

#### **Councilman Scott Olson**

- Environmental Commission meets on Thursday, March 22, at 7:30 p.m. in the Council conference room.
- Attended the NJ Land Conservation Rally in Monmouth County. Participated in a round-table discussion with Ben Spinelli regarding "politics and the environment". Also attended several seminars, which were very interesting

- The Musconetcong Watershed Association will be having their annual spring clean-up on April 14<sup>th</sup>. Groups interested should contact Margaret McGarrity.
- Attended the March 15<sup>th</sup> Highlands Meeting where Eileen Swan was removed from her position as director and Tom Borden resigned. It is a huge loss. Scott will be attending a Highlands meeting on March 22<sup>nd</sup> with the Mayor and Manager regarding the Jones Lane parcel.
- Removal of soil will start on March 26th at the EPA Mansfield Dump Site.
- Spoke to Art Ondish regarding the Energy Receipts Tax – Art is pushing legislation to get a major portion of the money back to towns.
- **Councilwoman Nisha Kash**
- Attended the Sussex County League of Municipalities Meeting on March 14. Commissioner Hall Wirths of the NJ Department of Labor was the speaker. One of the topics discussed was the new website [www.jobs4jersey.com](http://www.jobs4jersey.com). This is a very useful tool for searching for a job.
- Byram BOE budget presentation is on Thursday, March 22<sup>nd</sup>.

**Mayor Jim Oscovitch**

- Dr. Podorski, past superintendent of Byram Schools, passed away on March 16.
- The Sussex County Chamber is hosting a symposium on May 21 from 5-7 p.m. at Sussex County Technical School. The Mayor will be attending.

**Attorney Tom Collins** – Tom Collins stated that he would like the Council to go into an executive session to discuss under attorney client privilege/anticipated pending litigation the matter of the petition that was submitted. Motion by Councilwoman Raffay, second by Councilman Olson, to go into executive session after the Consent Agenda. All members were in favor. Motion carried.

**Fire Chief Chuck Putz** stated that everything was good with the Fire Department. They have had approximately 30 calls in two months, which luckily is less than last year.

**PUBLIC PARTICIPATION I** - Motion by Councilman Olson, second by Councilwoman Raffay, to open to public. All members were in favor. Motion Carried.

Harvey Roseff, 33 Sleepy Hollow Road, stated he is one of the petitioners and wanted to review some points. He stated that there was a 3-2 council vote on the COLA ordinance, and he is asking the governing body to listen to the petitioners. Mr. Roseff stated that this will most likely end up in the appellate court. He asked the governing body to again consider voting to repeal the ordinance.

Motion by Councilman Olson, second by Councilwoman Raffay, to close to the public. All members were in favor. Motion Carried.

**APPROVAL OF MINUTES**

- March 6, 2012 Regular Meeting Minutes – Motion by Councilman Luaces, second by Councilwoman Kash to approve the minutes as presented.

COUNCIL MEMBER	Councilman Luaces	Councilwoman Raffay	Councilman Olson	Councilwoman Kash	Mayor Oscovitch
Motion	x				
2nd				x	
Yes	x	x	x	x	x
No					
Abstain					
Absent					

- March 6, 2012 Executive Session Minutes - Motion by Councilman Olson, second by Councilwoman Kash to approve the minutes as presented.

COUNCIL MEMBER	Councilman Luaces	Councilwoman Raffay	Councilman Olson	Councilwoman Kash	Mayor Oscovitch
Motion			x		
2nd				x	
Yes	x	x	x	x	x
No					
Abstain					
Absent					

**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 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. Motion by Councilwoman Kash, second by Councilman Olson, to approve the consent agenda.

- A. Resolution No. 52-2012 – Self-Examination of Budget Resolution
- B. Resolution No. 53-2012 – Tonnage Grant Application Resolution
- C. Resolution No. 54-2012 – Resolution to Extend the Temporary Appropriations until the Adoption of the 2012 Budget
- D. Resolution No. 55-2012 – Resolution Authorizing Appropriation Reserve Budget Transfers for 2011
- E. Resolution No. 56-2012 – Resolution Calling for the Restoration of Energy Taxes to Municipalities
- F. Resolution No. 57-2012 – Tax Sale Certificate Redemption - \$15,338.01 – Block 6/Lot 411
- G. Approval of Sussex County Crime Stoppers 50/50 Raffle License on May 3<sup>rd</sup> at Adam Todd Inn

COUNCIL MEMBER	Councilman Luaces	Councilwoman Raffay	Councilman Olson	Councilwoman Kash	Mayor Oscovitch
Motion				X	
2nd			X		
Yes	X	X	X	X	X
No					
Abstain					
Absent					

**RESOLUTION FOR EXECUTIVE SESSION** – Motion by Councilman Olson, second by Councilwoman Raffay, to go into executive session at 7:30 p.m. and adopt the below resolution.

**RESOLUTION**

WHEREAS, the Open Public Meetings Act, P. L. 1975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Township of Byram, that the public shall be excluded from discussion of the following matters:

- **Attorney Client Privileged Information/Contract Negotiations** – Petition

BE IT FURTHER RESOLVED that Minutes will be kept on file in the Municipal Clerk’s office, and once the matter involving the confidentiality of the above no longer requires that confidentiality, then the minutes shall be made public.

**BYRAM TOWNSHIP COUNCIL**

Certification: I certify that the Byram Township Council adopted the above resolution on March 20, 2012.

Doris Flynn, Municipal Clerk

COUNCIL MEMBER	Councilman Luaces	Councilwoman Raffay	Councilman Olson	Councilwoman Kash	Mayor Oscovitch
Motion			X		
2nd		X			
Yes	X	X	X	X	X
No					
Abstain					
Absent					

**RETURN TO OPEN SESSION** - Motion by Councilman Olson, second by Councilwoman Raffay to return to open session at 7:45 p.m. All members were in favor. Motion Carried.

**Resolution No. 58-2012 - Rejection of Petition Seeking Referendum**

**WHEREAS**, on or about February 27, 2012, the Township Clerk was presented with a Petition requesting the repeal of Ordinance 1-2012, and demanding that if the Ordinance was not repealed, a special election be scheduled to consider whether the Ordinance should be repealed; and

**WHEREAS**, an issue was raised as to whether the repeal of Ordinance 1-2012, which authorized exceeding the municipal budget appropriation limits and the establishment of a cap bank in accordance with the authority of N.J.S.A. 40A:4-45.14, could validly be made the subject of a special election or referendum; and

**WHEREAS**, the Township Attorney was asked to render an opinion on this issue; and

**WHEREAS**, by letter opinion dated March 6, 2012, a copy of which is attached to this Resolution and incorporated herein by reference, the Township Attorney concluded that Ordinance 1-2012 is not subject to repeal by the referendum process.

**NOW, THEREFORE, BE IT RESOLVED** based upon the aforesaid March 6, 2012 letter opinion of the Township Attorney, which concluded that Ordinance 1-2012 is not subject to repeal by the referendum process, the Township Clerk is directed to reject the February 27, 2012 Petition, and is further directed not to schedule a special election or referendum on the proposed repeal of Ordinance 1-2012.

**BYRAM TOWNSHIP COUNCIL**

The Mayor read the above resolution to the public. A motion was made by Councilman Olson, second by Councilwoman Raffay, to adopt this resolution.

A motion was made by Councilman Olson, second by Councilwoman Raffay, to open to the public for discussion on this resolution.

Jack Moran, 7 E. Waterloo Road, asked when the township attorney was asked to give his opinion on the Petition. He asked if the petition was certified.

Jeanne Moran, 7 E. Waterloo Road, asked if the petition was certified, and she stated that the attorney said at the last meeting that it was his intent to have the petition certified.

Joanne Smith, 57 Lake Drive, stated that she thought that the process was that the clerk certifies the petition and forwards it to the council. Attorney Tom Collins stated that it wasn't certified because it wasn't a valid petition.

A motion was made by Councilman Olson, second by Councilwoman Raffay to close to the public. The following was the vote taken on the resolution.

<b>COUNCIL MEMBER</b>	Councilman Luaces	Councilwoman Raffay	Councilman Olson	Councilwoman Kash	Mayor Oscovitch
Motion			x		
2nd		x			
Yes		x	x		x
No	x			x	
Abstain					
Absent					

**BILL LIST OF MARCH 20, 2012** - Motion by Councilman Olson second by Councilwoman Kash to approve the bills. Carlos Luaces recused from Bill No. 149 and 1902.

COUNCIL MEMBER	Councilman Luaces	Councilwoman Raffav	Councilman Olson	Councilwoman Kash	Mayor Oscovitch
Motion			X		
2nd				X	
Yes	X	X	X	X	X
No					
Abstain					
Absent					

**DISCUSSION ITEM**

- a. Review and approval of 2/29/2012 goal setting workshop minutes.

Mayor Oscovitch suggested to the Council that they should review the workshop minutes and prioritize on a 1 (being the lowest) to 5 (being the highest) basis. We can add this as a discussion item at the April 17<sup>th</sup> council meeting.

Motion by Councilman Olson, second by Councilwoman Kash to approve the minutes as presented.

COUNCIL MEMBER	Councilman Luaces	Councilwoman Raffav	Councilman Olson	Councilwoman Kash	Mayor Oscovitch
Motion			X		
2nd				X	
Yes	X	X	X	X	X
No					
Abstain					
Absent					

- b. Garbage Contract – Joe reviewed his memo dated March 20, 2012 addressed to the Council. The memo outlined the current contract and the bid process that we will need to go through starting in the fall. Joe Sabatini outlined the township’s options:

1. Bid Service and keep garbage in municipal budget.
  - o Bid Options:
    - Bid each service separately – solid waste, recycling & bulky waste.
    - Request flat amount with equal payments over duration of contract.
    - Explore options to address tipping fee – Green Twp elected to bid an option in which the tipping fee is passed on and paid by Green Twp.
    - Time period – can bid for 1 to 5 years. It had been the Town’s practice to bid garbage for 5 years (1/31/2018). Landfill is projected to filled late 2018.
    - Other alternatives.
2. Create Municipal Garbage Utility and Bid Service.
  - o Need to seed utility to cover costs minimally for first quarter of operation, an uncollectable rate and to pay initial collection and disposal bills.
  - o Need staff to cover billing and collections.
  - o It appears State law does not allow you to lien properties for garbage.
3. Tax payers contract for garbage service and pay hauler directly.
  - o Response to request for quotations:
    - \$34.78/mth (includes a fuel & environmental fee of \$4.17)
    - \$36.66/mth (\$110/quarter for solid waste and recycling)

Carlos would like to explore some other options. He stated that there are two companies in Passaic County--Greenstar and Greensky. They are recycling facilities, and he would like to look at what they offer. We could bid garbage and recycling separately. Joe stated that he would look into this and could make this an option in the bid process. Joe asked if we should look at a municipal utility. The Council felt that Joe had to at look into it as an option.

Scott asked to have a discussion with Stanhope since their existing garbage contract expires a few months after Byram’s contract expires.

**PUBLIC PARTICIPATION II**

Motion by Councilman Olson second by Councilwoman Kash to open to the public for discussion. All members were in favor. Motion carried.

No comments were made.

Motion by Councilwoman Kash, seconded by Councilwoman Raffay to close to the public. All members were in favor. Motion Carried.

**ADJOURN**

On the motion by Councilman Olson, second by Councilwoman Raffay, and with all members in favor, the meeting was adjourned at 8:45 p.m. Motion carried.

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Doris Flynn, RMC

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James Oscovitch, Mayor