

**TOWNSHIP OF BYRAM
COUNCIL MEETING AGENDA
TUESDAY, APRIL 19, 2011 – 7:30 P.M.**

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, NJSA 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

- April 5, 2011 Regular Meeting Minutes
- April 5, 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. 44-2011 – Support of A-3412 Sharing the Burden of Property Assessment Appeal Refunds
- B. Resolution No. 45-2011 – Tonnage Grant Application Resolution
- C. Resolution No. 46-2011 – Tax Sale Certificate Redemptions - #2010-021 & #08-030
- D. Resolution No. 47-2011 – Support of a New Jersey Statewide Ban on Natural Gas Development Involving Hydraulic Fracturing
- E. Resolution No. 48-2011 – PSA for Forest Stewardship Work on Open Space Parcels by Far Forrestry Services, LLC not to exceed \$4,600.00
- F. Proclamation – Relay for Life of Sussex County

10. APPROVAL OF APRIL 19, 2011 BILL LIST

11. ORDINANCE – 2nd Reading/Public Hearing – Ordinance to Authorize a Capital Expenditure for Improvement to Roseville Road Phase II and to Provide Funding in the Amount of \$240,000

12. DISCUSSION ITEMS

- a. Consideration of Strategic Planning Meeting for municipal complex building improvements
- b. Consolidated School
- c. State Aid
- d. Start Time of Township Council Meetings

13. PUBLIC PARTICIPATION II

14. RESOLUTION FOR EXECUTIVE SESSION

- Attorney Client Privilege Communication
 - 1. Stanhope Sewer Gallonage
 - 2. Open Space Acquisition

15. RETURN TO OPEN SESSION

16. ANY OTHER BUSINESS THE COUNCIL DEEMS NECESSARY

17. ADJOURNMENT

**TOWNSHIP OF BYRAM
SUSSEX COUNTY, NEW JERSEY
RESOLUTION NO. 44 – 2011**

**RESOLUTION SUPPORTING A-3412 SHARING THE BURDEN OF PROPERTY
ASSESSMENT APPEAL REFUNDS**

WHEREAS, when County Tax Board appeals are granted the municipality must reimburse the property taxpayer 100% of the appealed tax levy, which includes the municipal, school, county and any special districts tax; and

WHEREAS, the municipal tax collector makes the adjustment from the appeal as a credit on the 4th quarter tax bill resulting in the municipality's fund balance for the preceding year to diminished, if not completely depleted; and

WHEREAS, a recent League of Municipalities' survey has measured the extent to which residents have filed and won tax appeals in 2010; and

WHEREAS, one hundred fifty (150) municipalities, representing all both large and small municipalities in all 21 counties, that participated in the survey reported property value declines of more than \$87,900,000, which resulted from 19,788 tax appeals filed in 2010; and

WHEREAS, those responding to the survey indicated that 13,760 appeals were filed in 2009, compared to 19,788 in 2010, representing an increase of 43.7%; and

WHEREAS, a municipality often experiences an increase in tax appeals because they have conducted a revaluation, however, only 5 of the 150 municipalities, which participated in our survey, indicated that their 2010 appeals resulted from revaluations; and

WHEREAS, as a way of comparison, 23 of the participating municipalities conducted revaluations in 2009, when fewer tax appeals were presented to the County Tax Boards; and

WHEREAS, the 2010 spike in appeals should be attributed to the economic down-turn, which lowered property values and placed increased stress on the income of homeowners, all around our Garden State; and

WHEREAS, the survey also indicated that in 2010 the various County Tax Boards have granted average property value reductions of close to \$5,000, per appeal; and

WHEREAS, fifty-six percent of those responding indicated that the successful tax appeals would have an impact on fund balances and place additional pressures on local officials during 2011; and

WHEREAS, although the survey was a snapshot picture in time, it can be used to project what might follow in 2011, since the reductions, which were granted by County Tax Boards in 2010, will have a multiplier effect when neighbors learn of their neighbor's tax reduction, which will likely increase the appeals and in the alternative, Tax Assessors could be forced to adjust property values, based upon the appeal information; and

WHEREAS, successful tax appeals have a three-fold negative impact on municipal budgets. First, the municipality, as the collector of taxes for the School district, county and special districts, must fund the full cost of the legal defense of the assessment. Second, since State law guarantees to the county and the school district 100% of their levies, the municipality bears the full cost of any re-imbursements resulting from the appeal (as well as the full burden for any uncollected taxes). Third, the end result will be a further decline in the property tax base used to support Municipalities, County governments and School systems; and

WHEREAS, in light of the revenue limitations that have been placed on all levels of local government by the Legislature (2% cap), such declining values will compound and add additional stress to local public officials, as they grapple with the issues confronting the tax paying public; and

WHEREAS, Assemblyman Carroll has recently introduced A-3412, which requires fire districts, school districts, and county governments to share in burden of property assessment appeal refunds;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Township of Byram hereby urge the swift passage and signing of A-3412; and

BE IT FURTHER RESOLVED, that copies of this Resolution be forwarded to New Jersey Governor Chris Christie, to Senate President Stephen Sweeney, to Assembly Speaker Sheila Oliver, to our State Senator, to our two Representatives in the General Assembly, and to the New Jersey League of Municipalities.

DISTRIBUTION LIST

1. The Hon. Chris Christie,
Governor, State of New Jersey
PO Box 001
Trenton, NJ 08625
Phone (609) 292-6000
Fax (609) 292-3454
2. The Hon. Stephen Sweeney,
Senate President,
Senator, District 3
NJ Senate Democratic Office
State House PO Box 099
Trenton, NJ 08625
Phone (609) 292-5215
SenSweeney@njleg.org
3. The Hon. Sheila Oliver,
Speaker, NJ General Assembly
Assemblywoman, District 34
NJ General Assembly Democratic Office
PO Box 098
Trenton, NJ 08625
Phone (609) 292-7065
Fax (609) 292-2386
AswOliver@njleg.org
4. NJ League of Municipalities
222 West State Street
Trenton, NJ 08608
Phone (609) 695-3481
Fax (609) 695-0151
NJLeague@njslom.com
5. **Honorable Steven V. Oroho**
District 24, N.J. State Senator
115 Demarest Road, Suite 2B,
Sparta, NJ 07871
(973)300-0200 Fax (973)300-1744
E-mail: senoroho@njleg.org
6. **Honorable Gary R. Chiusano**
District 24, N.J. State
Assemblyman
115 Demarest Road, Suite 2B,
Sparta, NJ 07871
(973)300-0200 Fax (973)300-1744
E-mail: asmchiusano@njleg.org

7. Honorable Alison Littell McHose
District 24, N.J. State
Assemblywoman
115 Demarest Road, Suite 2B,
Sparta, NJ 07871
(973)300-0200 Fax (973)300-1744
E-mail: aswmchose@njleg.org

8. Hon. Rodney P. Frelinghuysen
U.S. Representative
11th Congressional District
30 Schuyler Place, 2nd Floor
Morristown, NJ 07960
(973)984-0711 FAX: (973) 292-1569
World Wide Web: <http://www.frelinghuysen.house.gov>

**TOWNSHIP OF BYRAM
RESOLUTION NO. 45 – 2011**

TONNAGE GRANT APPLICATION RESOLUTION

WHEREAS, the Mandatory Source Separation and Recycling Act, P.L. 1987, c.102, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protection and Energy is promulgating recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including, but not limited to, making and keeping accurate verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a resolution authorizing Byram Township to apply for such tonnage grants will memorialize the commitment of this municipality to recycling and indicate the assent of the Mayor and Township Council to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, such a resolution should designate the individual authorized to ensure that the application is properly completed and timely filed.

NOW THEREFORE BE IT RESOLVED by the Mayor and Township Council of the Township of Byram that the Governing Body hereby endorses the submission of a Municipal Recycling Tonnage Grant Application to the New Jersey Department of Environmental Protection and Energy and designates Cindy Church, Recycling Coordinator, to ensure that the said application is properly filed.

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

BYRAM TOWNSHIP COUNCIL

ATTEST:

I certify that the foregoing resolution was adopted by the Byram Township Council at a meeting held on April 19, 2011.

Doris J. Flynn, RMC
Township Clerk

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

**TOWNSHIP OF BYRAM
RESOLUTION NO. 46 – 2011**

TAX SALE CERTIFICATE REDEMPTION

WHEREAS, the Tax Collector has certified that the following Tax Title Liens have been satisfied:

Lien Holder	Certificate #	Block/Lot	Amount
Virgo Mun. Fin. Fund LP	#2010-021	295 9	\$14,526.32
Jessie Wolosky	#08-030	342.02 20	\$ 24.67

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Township Council, Township of Byram, County of Sussex, New Jersey, that the Tax Collector be authorized to accept said funds to redeem and remove the liens.

BYRAM TOWNSHIP COUNCIL

COUNCIL MEMBER	Councilman Olson	Councilwoman Rafferty	Councilman Rafferty	Councilman Rathv	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 April 19, 2011.

Doris J. Flynn, RMC
Township Clerk

**TOWNSHIP OF BYRAM
SUSSEX COUNTY, NEW JERSEY
RESOLUTION NO. 47-2011**

**RESOLUTION SUPPORTING A NEW JERSEY STATEWIDE BAN ON NATURAL
GAS DEVELOPMENT INVOLVING HYDRAULIC FRACTURING**

WHEREAS, natural gas development is proposed within the Delaware River Watershed; and

WHEREAS, the Delaware River is designated as a Wild and Scenic River of federally recognized outstanding resources, natural assets, and exceptional water quality; and

WHEREAS, the Delaware River watershed supplies drinking water to over 15 million people, many of them downstream of the Marcellus Shale fairway in the Upper and Middle Delaware River Watershed, including approximately 3 million people in New Jersey; and

WHEREAS, the Delaware River is the lifeblood of the communities along the River, is essential for commerce, tourism and recreation, and once contaminated will negatively impact those communities and those uses and can be very costly or impossible to remediate and can take a very long time; and

WHEREAS, the Delaware River Basin Commission (DRBC) has designated the non-tidal River - the entire 197 mile River from Hancock, New York to Trenton, New Jersey - as Special Protection Waters due to the exceptional water quality and “exceptionally high scenic, recreational, ecological, and/or water supply values” of the River; and

WHEREAS, these special waters and ecosystems must be maintained as per the DRBC Water Code, so that there be “no measurable change in existing water quality except towards natural conditions”, requiring protection from avoidable water quality degradation; and

WHEREAS, degradation of these waters would be illegal and would impose significant hardships, public health detriment, and economic harm if degraded; and

WHEREAS, the natural gas development process involves the use of chemicals and hazardous materials during construction, drilling, hydraulic fracturing, gas production and delivery, well maintenance, and workover operations; and

WHEREAS, hydraulic fracturing of underground geologic formations is often accomplished by injecting a complex mix of fluids and chemicals, including large volumes of water, on average 4.5 million gallons per well, under very high pressure to create fractures in gas bearing geologic formations; and

WHEREAS, billions of gallons of fresh water will be depleted by hydraulic fracturing (the water is not returned to the source and is classified as a consumptive loss) and at least 200,000 acres of land are already leased for gas development, and that tens of thousands of wells are expected to be drilled in the Upper and Middle Delaware River Watershed; and

WHEREAS, many of the chemical constituents injected during hydraulic fracturing have documented adverse health effects and/or adverse environmental impacts; and

WHEREAS, use of these hydraulic fracturing mixes exposes adjacent land and surface waters to the risk of contamination through open pit storage, truck transport on roadways, and activities during well development; and

WHEREAS, in 2005, as part of the federal Energy Policy Act and over objections of health care, scientific, environmental, and conservation communities, regulation of hydraulic fracturing fluids under the Safe Drinking Water Act by the Environmental Protection Agency was exempted, thereby allowing oil and gas companies to use these substances without federal oversight or standards; and

WHEREAS, the oil and gas industry remains one of the only industries that is allowed to inject such known chemical constituents directly into or adjacent to underground drinking water supplies without federal oversight; and

WHEREAS, the oil and gas industry is not required by federal law to publicly disclose chemical formulas of hydraulic fracturing fluids so that this information is publicly available for health and safety purposes; and

WHEREAS, proposed natural gas wells in the Delaware River Watershed are planning to use chemical additives in drilling and to use hydraulic fracturing in developing these wells and exploratory wells that have been drilled have used chemical additives in drilling; and

WHEREAS, natural gas development will fragment forests in the Upper and Middle Delaware River Watershed, which is 89% forested, and convert naturally vegetated land to impervious cover and industrial conditions, increasing stormwater runoff and pollution, flooding, sedimentation, and erosion to the tributaries and the mainstem River and will emit air pollution during constructing, drilling, extraction, and production of natural gas; and

WHEREAS, the Delaware River Basin Commission is seeking funding to complete a cumulative impact analysis of natural gas development on the water resources of the Delaware River Basin; and

WHEREAS, the US Environmental Protection Agency is studying the practice of hydraulic fracturing and the study will be completed in 2012 and, if it is recommended by the study that hydraulic fracturing should be subject to the Safe Drinking Water Act, that the federal oversight of hydraulic fracturing would not be unduly burdensome on industry or the economy; and

WHEREAS, Byram Township, through it's leadership as the first municipality to conform to the New Jersey Highlands Water Protection and Planning Council's Regional Master Plan, has declared that water is a valuable precious natural resource that must be protected; and

WHEREAS, the wise stewardship of Byram Township's natural resources involves planning for the protection of its water supplies and water resources for generations to come; and

WHEREAS, protection of Byram Township's water supplies and resources is better accomplished by prevention of contamination and environmental degradation, rather than attempting to cleaning up contamination and restoring degraded environments after the fact;

NOW, THEREFORE, BE IT RESOLVED, that the Byram Township Mayor and Council support strong regulation by the DRBC to prevent pollution and avoid degradation of the water resources and ecosystems of the Delaware River Watershed; and

AND BE IT FURTHER RESOLVED that the Byram Township Mayor and Council supports a New Jersey statewide ban on natural gas development involving hydraulic fracturing; and

AND BE IT YET FURTHER RESOLVED that Byram Township calls on our Congressional Representative and U.S. Senators to join Senator Lautenberg, Congressman Pallone and Congressman Holt in co-sponsoring H.R. 1084/ S. 587, the Fracturing Responsibility and Awareness of Chemicals Act ("FRAC Act") a bill that would repeal the fracking exemption to the Safe Drinking Water Act and require disclosure of chemicals used in fracking.

PASSED, APPROVED, AND EFFECTIVE on this 19th day of April, 2011

ATTEST:

Mayor

1. PLEASE SEND A COPY OF THIS SIGNED RESOLUTION TO:

2. Senator Steven Oroho
 3. Assemblywoman Alison McHose
 4. Assemblyman Gary Chiusano
 5. Congressman Rodney Frelinghuysen, 30 Schuyler Place, 2nd Floor, Morristown, NJ 07960
 6. Senator Frank Lautenberg, One Gateway Center, 23rd Floor, Newark, NJ 07102
 7. Senator Robert Menendez, One Gateway Center, Suite 1100, Newark NJ 07102
 8. Delaware Riverkeeper Network, 300 Pond Street, 2nd Floor, Bristol, PA 19007
 9. Food and Water Watch, 100 Bayard Street, Suite 310, New Brunswick, NJ 08901
- Musconetcong Watershed Association, P.O. Box 113; Asbury, NJ 08802

**TOWNSHIP OF BYRAM
RESOLUTION NO. 48 – 2011**

**RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES
AGREEMENT FOR FOREST STEWARDSHIP WORK ON OPEN
SPACE PARCELS IN BYRAM TOWNSHIP**

WHEREAS, has determined that there is a need to enter into a professional services agreement with Farr Forestry Services, LLC for Forest Stewardship work on Byram Township Open Space Parcels; and

WHEREAS, funds are available for this purpose through the Open Space Trust Fund; 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 Farr Forestry Services, LLC.
2. The agreement is outlined in the attached proposal dated 3/1/2011 from Farr Forestry Services.
3. 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 April 19, 2011 adopted the foregoing resolution.

Doris J. Flynn, Township Clerk

PROCLAMATION
RELAY FOR LIFE OF SUSSEX COUNTY

WHEREAS, Relay For Life is the signature activity of the American Cancer Society and celebrates cancer survivors and caregivers, remembers loved ones lost to the disease, and empowers individuals and communities to fight back against cancer; and

WHEREAS, money raised during Relay for Life of Sussex County supports the American Cancer Society's mission of saving lives and creating a world with less cancer and more birthdays – by helping people stay well, by helping people get well, by finding cures for cancer and by fighting back; and

WHEREAS, Relay for Life helped fund more than \$150 million in cancer research last year.

NOW, THEREFORE, BE IT RESOLVED, that the Township of Byram does hereby proclaim the week of May 16 as

“RELAY FOR LIFE DAYS”

and encourages citizens to participate in the Relay for Life event at Sussex County Community College from 4:00 p.m. Saturday to 6:00 a.m. Sunday.

James Oscovitch, Mayor

ATTEST:

Doris J. Flynn, Township Clerk

**TOWNSHIP OF BYRAM
SUSSEX COUNTY, NEW JERSEY
ORDINANCE NO. 4 - 2011**

**AN ORDINANCE TO AUTHORIZE A CAPITAL EXPENDITURE FOR
IMPROVEMENT TO ROSEVILLE ROAD PHASE II AND TO
PROVIDE FUNDING IN THE AMOUNT OF \$240,000.00.**

WHEREAS, the Township of Byram has estimated the cost of road improvements for Roseville Road Phase II to \$240,000.00; and

WHEREAS, the Township of Byram has made application for grants in aid and has been approved for an amount of \$165,000.00 for Phase II per letter dated January 26, 2011; and

NOW, THEREFORE BE IT ORDAINED, and enacted by the Council of the Township of Byram, County of Sussex, and State of New Jersey, as follows;

Section 1 – The Manager and Municipal Clerk are authorized to effect road improvements as set forth in plans to be prepared by the Municipal Engineer and approved by N.J.D.O.T. for Roseville Road, Phase II. All actions shall be taken in accordance with the Local Public Contracts Law and other applicable regulations.

Section 2 – This ordinance shall be funded as follows:

\$165,000.	Transportation Trust Fund Grants in Aid
50,000.	2011 Budget-Capital Improvements-Roseville Rd Ph II
10,000.	2011 Capital Improvement Fund
<u>15,000.</u>	2011 Current Fund – Engineering O/E
\$240,000.	TOTAL

Section 3 – The reasonable anticipated period of usefulness of this improvement is not less than ten (10) years.

Section 4 – This ordinance shall take effect immediately after final passage, approval and publication as provided by law.

BY ORDER OF THE MAYOR AND COUNCIL OF BYRAM TOWNSHIP

DORIS J. FLYNN, CLERK

JAMES OSCOVITCH, MAYOR

Introduced: 4/5/2011

Adopted: 4/19/2011

NOTICE

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 5th day of April 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 19th day of April, 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.

BYRAM TOWNSHIP

DORIS FLYNN, TOWNSHIP CLERK