

BYRAM TOWNSHIP COUNCIL MEETING - JULY 20, 2009

CALL MEETING TO ORDER

The Mayor called the meeting to order at 7:01 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 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.

ROLL CALL

Councilman Olson, here; Councilwoman Raffay, here; Councilman Rafferty, here; Councilman Thompson, here; Mayor Oscovitch, here. Township Manager Joe Sabatini, Attorney Tom Collins and Municipal Clerk Doris Flynn were also present.

CLOSED SESSION

Motion by Councilman Olson, second by Councilman Thompson to go into closed session at 7:02 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:

- Contract Negotiations – Open Space
- Pending/Ongoing Litigation – PSE&G

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 foregoing resolution On July 20, 2009.

Doris Flynn
Municipal Clerk

Return to Public – Motion by Councilman Olson, second by Councilman Rafferty to return to public session at 7:26 p.m. and take a ten-minute recess. All members were in favor. Motion carried.

CALL MEETING TO ORDER

The Mayor called the meeting back to order at 7:35 p.m.

PLEDGE OF ALLEGIANCE AND MOMENT OF SILENT REFLECTION

APPROVAL OF AGENDA – The order of agenda items was adjusted. Resolution 107-2009 was removed from the Consent Agenda and action on this item will be taken on August 10. There will only be discussion on the Lakeland Emergency Squad Agreement. A resolution will not be voted on. Motion by Councilman Olson, seconded by Councilwoman Raffay to approve the agenda. All members were in favor.

PRESENTATIONS

- Highlands Plan Conformance Update – Chris Hellwig provided an update on the Plan Conformance Grant and the progress of the Modules. Today, the Township received the Byram Township Municipal Build-Out Report from the Highlands Council. This report was reviewed with the Council.
- Insurance – Frank Covelli

1. Renewal of Delta Dental Contract – Frank Covelli is still working on getting favorable renewal figures. The Council can consider this at their August meeting without any interruption in the contract.
2. Life/LTD – Reviewed a comparison worksheet between Harleysville and Standard Insurance Company. Several benefits were increased under Standard Ins. Co. and overall there would be a \$12,000 savings to the Township.

INTRODUCTION OF ORDINANCE

BE IT RESOLVED that the Ordinance entitled “**ORDINANCE OF THE TOWNSHIP OF BYRAM CREATING CHAPTER 113 CONTINUING CERTIFICATE OF OCCUPANCY**” be introduced and read by title by the Township Clerk and passed on first reading. Motion by Councilman Olson, second by Councilwoman Raffay, to introduce the ordinance.

This ordinance was previously introduced at the last meeting and scheduled for a public hearing this evening, but a change was made resulting in the reintroduction of the ordinance. Mayor Oscovitch stated that the Council would take public comment on this ordinance since it was advertised for a public hearing. Byram’s Zoning Officer, John Gutwerk, was present and he summarized the ordinance. Councilman Thompson voiced strong objections to the ordinance.

Frank Gonzalez, 34 Sherwood Forest Drive, asked if the Township what would the Tax Assessor do if, upon inspection, the number of bedrooms were reduced. He asked if there would be a reduction in taxes.

George Shivas, Amity Road, asked what the cost would be for the Continued Certificate of Occupancy. He was told it was \$40.00.

Tracy Colangelo, 34 Waterloo Road, expressed her concerns and opposition to this ordinance. She stated that this would be a burden to the residents and the Council should give economic consideration to the people of Byram.

Jeanne Moran, 7 East Waterloo Road, discussed at length her concerns regarding this ordinance and made several suggestions.

Councilman Olson asked what would happen if, upon inspection, it was discovered that work was done without a permit and in violation of the UCC and the seller could not afford to rectify the situation. Could there be a waiver that would allow the repair to be made by the buyer? Joe Sabatini stated that the ordinance would have to be rewritten to allow it.

After a very in-depth discussion period, Mayor Oscovitch closed to the public and looked for a motion to table the ordinance and rework it and bring it back to the Council on September 8, 2009. When there is a public hearing on this ordinance, the residents will have an opportunity to make further comments. Motion by Councilman Olson, seconded by Councilman Rafferty to table.

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

Approval of Outdoor Charity Fundraiser Event at Barones – Pat Barone was present for discussion.

- The Clerk received a request from Pat Barone seeking permission to have an outdoor barbeque fundraiser in August.
- A portion of the daily revenue will go towards DASI (Domestic Abuse & Sexual Assault Intervention Services located in Newton)
- The barbeque will be set up on the back lawn with hours of operation from 3:00 to 8:30 PM.

- A live band will be playing music from the 50's and 60's.
- Alcohol will be served outside which is permitted under Mr. Barone's liquor license.
- The Township received a site plan which shows the location of the band and barbeque.
- Under Chapter 240 – Zoning Laws – Section 62 Conditional Uses. – Section B:
 - a. (B) Outdoor use. The sale of fresh fruits and vegetables, service of foods and beverages and incidental entertainment (hereinafter "outdoor accessory use") may be permitted outdoors as accessory to a permitted existing principal use, and provided that all of the following requirements are complied with.
 - b. (1) This subsection does not apply to temporary activities of the federal, state, county or municipal government, agencies and departments thereof, or nonprofit, religious, charitable, political and civic associations, which may be permitted in any zone with the consent of the Township Council.

Pat Barone stated that there was a problem with the August date and now they were planning for September 13.

Mayor Oscovitch opened to the public for comment. Earl Riley, 5 Louis Drive, stated that he thought this was a fabulous event for a great cause; and as a nearby neighbor, he had no objections.

Motion by Councilman Olson, seconded by Councilman Thompson to approve this event for September 13, 2009, with the condition that Pat Barone would notify the Township Clerk in writing if the date changed. All members were in favor.

REPORTS
Manager's Report:

PSE&G Update:

- The Manager and Councilman Olson attended the July 8 Status Meeting with the Coalition of Municipal Interveners.
- Municipal Coalition has retained some experts and Testimony Submitted by 7/10.
- Experts Include:
 - a. Testimony of **Steven Balzano** - an environmental expert who will testify concerning the overall environmental impact of the project and with specificity as to the interveners' towns
 - b. Testimony of **Dr. Benjamin Sovacool** – an engineer to discuss the reliability and needs issues of the PSEG project and offer alternatives, as well as criticism.
 - c. **Tim White** of MWW Consultants, a public relations specialist and lobbyist who is working on "higher level" opposition to the project.
 - Public Service Electric and Gas Company ("PSE&G") advised the Interveners that PSE&G would make Three Hundred Thousand and 00/100 Dollars (\$300,000.00) available to them in an escrow

Lackawanna Cut-Off:

- The Federal Transit Administration of the U.S. Department of Transportation and NJ TRANSIT issued the June 2009 Supplemental Environmental Assessment to the New Jersey-Pennsylvania Lackawanna Cut-Off Passenger Rail Service Restoration Project Environmental Assessment June 2008.
- This Supplemental Environmental (EA) provides additional analysis on the Non-minimal Operable segment.
- The Byram Township Environmental Commission provided comments under my signature on the supplemental EA before the due date of July 17, 2009.

DPW:

- Acknowledged the letter to the editor that was in this past week's Township Journal. The article thanked all the DPW workers and Adolf Steyh for keeping the fields at CO Johnson in excellent shape as well as supporting Lakeside Construction who installed the scoreboards for the Hobb Engler Little League.

August Council Meetings:

- In August there will be one council meeting scheduled for Monday, August 10. The regularly scheduled meetings in September are September 8 and 21.

Status of Fire Truck:

- On Friday, the Manager traveled to Newark with the Assistant Chief of the Fire Department to meet with the truck repair company that will be fixing the truck.
- There was a feeling of relief and assurance that the truck is will be satisfactorily repaired. The Fire Department will provide the oversight to ensure the truck is repaired to their satisfaction. It was communicated that the Township will not accept receipt of the vehicle until after the truck has been recertified due to the level of repair.
- It is expected that at it will take 2-3 months to repair the truck.

Councilman Olson

- The EC will meet on July 23 at 7:30 p.m.
- The EC has drafted a letter to Senator Oroho, Assemblywoman McHose, and Assemblyman Chiusano asking for assistance in funding for repairing the Sussex Branch Trail north of North Shore Road entering into Andover Borough. The EC will finalize the letter at its next meeting and mail it out to Byram’s neighboring towns in an attempt to ask them to partner in the effort.
- The ARC is scheduled to meet on July 21 at 8:30 p.m.
- Provided a PSE&G update

Councilwoman Raffay

- Reported on the July 16th Planning Board meeting. Timbers Restaurant, which has taken the place of Porky’s, came before the Planning Board for a site plan waiver for their sign and wall between the two buildings—restaurant should be opening sometime in August.

Councilman Rafferty

- Reported on discussions at the Recreation Committee meeting.
- Temporary lighting will be used again in the fall for soccer and football. He asked the Manager if there needed to be any notification given by the organization. The Manager will discuss this with the Recreation Director.

Mayor Oscovitch

- Wished a happy belated birthday to Councilman Rafferty.
- Reported receiving a notice from the New Jersey Poison Information & Education System stating that poisoning causes more deaths than motor vehicle accidents. New Jersey has experienced a steady increase in unintentional poisoning deaths.
- Attended the Andover-Byram Chamber of Commerce meeting on July 10th. Laurie Boyle is organizing “Tastes of the Lakes” which would be an event in the fall held at Waterloo Village or Adam Todd. This is a work in progress and more information will be given out soon.
- Waterloo Village is now open on weekends through October.

Lakeland Emergency Squad

Deb Reidmiller, Chief of Lakeland Emergency Squad, presented a report on statistics for the first six months of 2009 to the Council. The squad logged 644 calls, 2112 hours and 13-1/2 thousand miles.

PUBLIC PARTICIPATION I – Motion by Councilman Rafferty, second by Councilman Olson to open to the public. All members were in favor.

Jack Moran, 7 East Waterloo Road, stated that he felt he should have been allowed to make additional comments on the Continued Certificate of Occupancy. Mayor Oscovitch stated that he would have an opportunity to speak at the public hearing for this ordinance. Jack Moran asked if there was any update on the East Brookwood road-paving project. Joe Sabatini summarized the status of the project. Cory Stoner has to approve the as-builts first and then paving will begin. He asked if the Recreation Committee minutes could be posted on the website. He also asked about the status on the additional egress/ingress to East Brookwood.

Jack Moran suggested putting something on the website to let the public know that if they email the entire council as a group they may not get a response because of the OPMA. He also suggested noting on the website that the Council would invite phone calls.

George Shivas, Chairman of the Planning Board, stated that he supports the 2nd egress/ingress entrance into East Brookwood and it is in the Master Plan.

Pat Moschella, 3 Mountain Avenue, asked about where the second entrance would be for East Brookwood. George Shivas stated that he was in favor of opening up the end of Brookwood Road. Councilman Olson stated that five options were discussed at a Council meeting last year, but no further action was taken.

Suzy VonLengerke, 210 Stag Pond Road, stated that she was disappointed that all the public was not given the opportunity to speak regarding the Continued Certificate of Occupancy. Mayor Oscovitch stated that the public will have an opportunity for additional comments when the ordinance comes back before the Council.

Informal Interviews of Interested Candidates for the Alternate Planning Board Seats

Lisa Shamamoto, Frank Gonzalez, Larry Rotter and Skip Danielson spoke informally with the Council regarding their desire to be appointed to the Alternate Planning Board seat. Each candidate stated their background and reasons for wanting to be a part of the Planning Board. Two additional candidates will be interviewed on August 10th.

APPROVAL OF MINUTES

- July 6, 2009 Regular Session Minutes – Motion by Councilman Rafferty, seconded by Councilman Thompson to approve the minutes as written.

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

- July 6, 2009 Closed Session Minutes – Motion by Councilman Olson, second by Councilman Rafferty to approve the minutes as written.

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

CONSIDERATION OF BILLS – July 20, 2009 – Councilman Rafferty, seconded by Councilman Thompson, made a motion to accept the bills. Councilman Thompson recused from Bill No. 3857, 3924, 3923.

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

CONSENT AGENDA: All items with an (*) 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 will be removed from the general order of business and considered in its normal sequence on the agenda.

- A. *Resolution 106-2009 – Resolution Authorizing the Risk Management Consultant to Secure the Group Life, Accidental Death & Dismemberment (AD&D) and Long Term (LTD) Insurance Proposal for Eligible Employees through the Standard Life Insurance Company
- B. *Resolution 108-2009 – Refund of Balance of Zoning Escrow – Blk. 41/214
- C. *Resolution 109-2009 – Authorizing Professional Services Agreement with Appraisal Systems for defense of State Tax Court Appeals

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

Lakeland Emergency Squad Agreement with Andover Township – The Council discussed the status of the agreement with Andover to purchase an ambulance. Councilman Olson made a motion, seconded by Councilman Rafferty, to allow Joe Sabatini and Tom Collins to continue negotiations and finalize agreement.

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

2ND READING/PUBLIC HEARING OF ORDINANCES

ORDINANCE 12-2009 – BE IT RESOLVED that Ordinance 12-2009 entitled “**ORDINANCE TO AMEND THE APPENDIX A; FEE SCHEDULE TO THE CODE OF BYRAM TOWNSHIP**” be read by title on second reading and a hearing held thereon.

Mayor Oscovitch opened to the public. No comments were made. Mayor Oscovitch closed to the public.

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

BE IT RESOLVED, that said Ordinance be passed on final reading and a Notice of Final Passage of said Ordinance be published in the official designated newspaper according to law.

ORDINANCE 13-2009 – BE IT RESOLVED that Ordinance entitled “**ORDINANCE TO ESTABLISH A LEASE BETWEEN THE TOWNSHIP OF BYRAM AND NORTH SHORE WATER ASSOCIATION, A NON-PROFIT CORPORATION, PURSUANT TO 40:A:12-14(c) AND 40A:12-159(i)**” be read by title on second reading and a hearing held thereon.

Mayor Oscovitch opened to the public. No comments were made. Mayor Oscovitch closed to the public.

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

BE IT RESOLVED, that said Ordinance be passed on final reading and that a Notice of Final Passage of said Ordinance be published in the official designated newspaper according to law.

Discussion Items:

Commercial Shooting Preserve Permit – NJDEP’s response to the Township Manager’s letter.

Councilman Rafferty expressed his frustrations with the NJDEP for not giving the Township a definition of “prior reasonable public interest”. Councilman Rafferty, seconded by Councilman Thompson made a motion to open to the public for comments.

Veronica Gilligan, 17 Sleepy Hollow Road, questioned statements made in the NJDEP letter regarding a determination by the lead toxicologist that lead shot deposited will not become soluble and enter the aquifer.

Sue Rotter, 80 Tamarack Road, asked if the toxicologist’s findings were based on testing.

Harvey Roseff, 33 Sleepy Hollow Road, stated that the Township is in a dilemma and feels that the Township should get an answer on the definition. He referred to the Environmental Analysis report submitted to Andover from Hudson Farm. Harvey Roseff entered it into evidence at a Planning Board meeting and it is part of the file.

Charles Gartland, Chairman of the Forest Lakes Water Company, referred to the Environmental Analysis Report and he expressed his concerns regarding the lead.

Kim Hiscano, Stag Pond Road, thanked Joe Sabatini for writing to the State. She encouraged the Council to look further into this issue like the Council has done with Riverbank and PSE&G. Kim Hiscano stated that the Council should supply the same scrutiny towards lead as we did toward EMF’s. She stated that the Hudson Farm West property line that borders the VonLengerke property line is not properly marked, which is a requirement under the CSP.

Councilman Rafferty stated that he would like to see this Council step up and move forward together to get answers from the State.

Harvey Roseff, 33 Sleepy Hollow Road, expressed his concerns regarding the response from the NJDEP and encouraged the Council to act.

Attorney Tom Collins stated that it was too late to intervene because the resident’s lawsuit is in the Appellate Division. After Mr. Collins learned that the Forest Lakes residents involved in the lawsuit filed a reply brief, he asked for copies of the brief from the State and the reply brief.

Veronica Gilligan, 17 Sleepy Hollow Road, stated that it is not only Forest Lakes that is affected. The scope is much bigger.

Councilman Olson stated that the Township could write a letter to the NJDEP alerting them of the improper marking along the boarder of the VonLengerke property if the VonLengerkes wished.

Adrian Gonzalez, 22 Sherwood Forest Drive, stated that a lawyer recently told him that it is not too late to file Amicus Curiae. Attorney Tom Collins did not share that opinion and asked for the name of the attorney he spoke with. Adrian Gonzalez will provide the attorney's name to the clerk. He also referred to a document that stated that the Hudson Farm is operating in two locations.

Art Valentine, 27 Deer Run, would like to feel that the Council and the public are working together. He feels this is a Byram problem not just a Forest Lakes problem.

Frank Gonzalez, 34 Sherwood Forest Drive, stated that there is commercial shooting for a fee at the Hudson Guild Farm on the Byram side. Tom Collins stated that would be a zoning violation and suggested that Mr. Gonzalez speak with the Zoning officer and report the violation.

Suzy Vonlengerke, 210 Stag Pond Road, suggested having the Township file its own lawsuit on a future permit.

Doug Hiscano asked if a property owner could raise animals on one property and move and shoot them for a fee on another property. Tom Collins said that it was permissible.

Mayor Oscovitch closed to the public.

Renaming of Tomahawk Park to Mountain Heights Park – The Recreation Committee submitted a request for the name change. Councilman Olson made a motion, second by Councilman Rafferty to change the name. All members were in favor. Councilman Olson asked if the town would be putting up a sign with the name change. Joe Sabatini suggested making it a scout project. Councilman Rafferty asked if the park was purchased with open space money.

Economic Development Committee – Councilman Olson would like to have some members from the Capital Committee come to the 2nd meeting in September and invite the Chamber of Commerce to discuss both committees.

Participation II

Jack Moran, 7 East Waterloo Road, stated that the East Brookwood Egress/Ingress should get brought to the surface again. He asked what was going on with the Route 206 widening. Joe Sabatini informed him that the State has received the treatment works permit to realign the sewer and they should be moving forward soon.

Jeanne Moran, 7 East Waterloo Road, reported that a street sign on the State property on the corner of Route 206 and Brookwood Road is falling over. The Manager will look into it.

Mayor Oscovitch closed to the public.

Councilman Olson would like to review and approve the pamphlet regarding Township meetings at the next meeting.

ADJOURN

On the motion by Councilman Olson, second by Councilman Rafferty, and with all members in favor signifying by "Aye", the meeting was adjourned at 12:10 a.m.


Doris Flynn, RMC


James Oscovitch, Mayor