

BYRAM TOWNSHIP COUNCIL MEETING - DECEMBER 3, 2019

EXECUTIVE SESSION - 6:30 P.M.

REGULAR SESSION – 7:30 P.M.

CALL MEETING TO ORDER

Mayor Rubenstein called the meeting to order at 6:30 p.m.

OPEN PUBLIC MEETING STATEMENT

This meeting is called pursuant to the provisions of the Open Public Meetings Law. This meeting was advertised in accordance with the OPMA law and posted on the bulletin board in the Municipal Building. In addition, a copy of this notice is and has been available to the public and is on file in the office of the Municipal Clerk.

ROLL CALL

Councilman Gray, absent; Councilwoman Kash, late (6:38 pm); Councilman Olson, here; Councilman Roseff, here; Mayor Rubenstein, here. Also present was Township Manager Joe Sabatini, Township Attorney Tom Collins, and Municipal Clerk Doris Flynn.

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:

- a. Attorney Client Privilege Communication
 - General
 - SHBP Status
 - BARKS
- b. Personnel - PD Staffing
- c. Shared Services – Mt. Olive ACO

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

	Councilman Gray	Councilwoman Kash	Councilman Olson	Councilman Roseff	Mayor Rubenstein
Motion			x		
2nd				x	
Yes			x	x	x
No					
Abstain					
Absent	x	x			

Certification: I certify that the Byram Township Council adopted the above resolution on December 3, 2019.
Doris Flynn, Municipal Clerk

RETURN TO OPEN SESSION – 7:30 p.m.

APPROVAL OF AGENDA – Motion by Councilman Olson, second by Councilman Roseff to approve the agenda with the removal of Resolution 242-2019 for discussion and tabling the approval of the minutes and remove the discussion of the municipal building. All members were in favor. Motion carried.

MANAGER AND COUNCIL REPORTS

Manager’s Report:

- This Sunday is the tree lighting and visit with Santa on Sunday, December 8th at 6 p.m. Santa and a magician will be at the Cranberry Lake Fire House. Letters to Santa has been kicked off and letters can be brought on Sunday.
- Holiday Light Contest is underway and ends December 11. Recreation Committee members will judge the homes on December 14 and winners will be announced at the December 17th Council meeting.
- Joe thanked the DPW, Chief and the Lieutenant for working today on getting power restored. Town hall is open as a warming center.

Mayor Rubenstein – Attended the Stuff the bus on November 24. 200 turkeys and huge amount of canned goods were collected. The Mayor expressed his thanks to Police, Fire, Lakeland and DPW for dealing with the storm and doing a great job.

Harvey Roseff – EC is working on recommendations to lower emissions. They will be getting saplings. Harvey attended the NJSLOM convention. He sat in on a drug seminar, OPRA court reviews, and a telecom meeting where they review federal and state laws and discussed a lot of rules. Harvey also attended the Path of Progress meeting.

Nisha Kash – no report

Councilman Olson – Reported on the 11/21 Planning Board meeting. There was a residential variance that was carried to the 9th of January. They also interviewed for a new attorney and a Planning Board attorney will be appointed on January 9.

PUBLIC PARTICIPATION I - Motion by Councilman Roseff, second by Councilman Olson to open to the public.

Dee Garrison, 1 River Road, trustee of BARKS. BARKS has worked with Byram for over 40 years. They have been presented with an agreement that they feel places a hardship on BARKS. Scott stated that the Manager negotiates all contracts with the approval of the Council. He feels it is premature to be negative and suggested they meet with Joe and continue to work on an agreement.

Scott Yappen, 5 Catherine, asked what was tabled. Scott stated that the Council decided that in closed session that they would remove the discussion of the municipal building because it is still under negotiation.

Jack Moran, 7 East Waterloo Road, asked if there was any update on energy aggregation. Tom Collins stated that the pilot program has expired for the energy aggregation companies. The DCA is working on new regulations.

Richard Schneider, 73 River Road, asked questions about the ordinance for Chapter 214. Joe explained that the ordinance covers the area from the owner's property line and edge of payment. Property owners sometimes plant trees, bushes, or installs walls and this ordinance places the responsibility of maintenance on the owner.

Jack Moran, 7 East Waterloo Road, stated that he feels this ordinance could bring up a lot of issues. Joe Sabatini briefly summarized the purpose of this ordinance. Scott Olson spoke about an issue that occurred when a drainage basin needed replacement and a homeowner's tree that was in the right-of-way had to be removed. This ordinance addresses situations similar to that. Tom Collins stated that tonight the ordinance is being introduced and the public will be able to comment at the next meeting during the public hearing.

Robert Boyle, resident of Denville and owner of Planet Networks, made a few comments on the 5G ordinance. He spoke about the 35' height limit on a pole and stated that 35' is quite small today. He said the typical is 40' and explained the rule for installing a pole – 10% of the height plus 2 feet goes in the ground. Mr. Boyle stated that all of utilities in NJ have 1 foot spacing. Phone takes the bottom, 1 foot higher is fiber, 1 foot above is cable, etc. They have to be 40" below the electrical lines. After a brief discussion among the Council, they agreed to make a minor change to the language stating that the pole shall measure 35' above the grade around the pole or 110%

Motion by Councilman Olson, second by Councilwoman Kash , to close to the public. All members in favor. Motion carried.

APPROVAL OF MINUTES

- November 18, 2019 –Regular & Closed Session Minutes – The minutes were tabled until the next meeting.

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

- A. Resolution No. 243-2019 – Resolution Authorizing Navitend to Provide Byram Website Redesign Services – Not to Exceed \$2,900
- B. Resolution No. 244-2019 – Resolution Authorizing Navitend to Provide Byram Police Department Website Redesign Services – Not to Exceed \$5,700
- C.

	Councilman Gray	Councilwoman Kash	Councilman Olson	Councilman Roseff	Mayor Rubenstein
Motion			x		
2 nd		x			
Yes		x	x	x	x
No					
Abstain					
Absent	x				

- A. Resolution No. 242-2019 – Resolution Authorizing Harold E. Pellow & Associates, Inc. to Proceed with a Review of Alternate Access Options for East Brookwood – Not to Exceed \$20,000 – Motion by Councilman Olson, second by Councilwoman Kash to move this resolution for purposes of discussion. Scott reviewed the information that Joe sent out yesterday, which was some research and memos written in 2008 by Engineer Cory Stoner and Planner Chris Hellwig. Scott would like to further review the research that was done in 2008 before we authorize Cory to do any work. Joe stated that there isn’t an easement filed in the County along the rear of the liquor factory property. There was only an agreement from the property owner to grant a limited access easement to Byram Township for emergency access to the Brookwood neighborhood, but the easement was never made. This was discussed at length in 2017 and it was decided by the Council not to pursue at that time because it would have been an expense solely funded by Byram Township. Alex reviewed Cory Stoner’s report and feels that Option 3B, which is to extend Brookwood Road, and utilize the bike path with modification to Mansfield Drive or putting utilities underground are the only 2 viable options.

The Council was in agreement to direct Cory to give a more detailed proposal on 3b and look at relocating utilities underground.

Jack suggesting contacting Barry Feldman to see if they would change the location of the easement. Alex doesn’t like the option into Woods Edge because that is only on the outskirts of the Brookwood.

Councilman Olson withdrew his motion.

December 3, 2019 BILL LIST

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

	Councilman Gray	Councilwoman Kash	Councilman Olson	Councilman Roseff	Mayor Rubenstein
Motion			x		
2nd		x			
Yes		x	x	x	x
No					
Abstain					21500
Absent	x				

• **ORDINANCE – 1st Reading / Introduction**

- **AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 188 ENTITLED “PUBLIC UTILITY POLES AND UNDERGROUND FACILITIES” BY ADDING NEW SECTION 188-6 ENTITLED “SITING POLES, CABINETS AND ANTENNAS IN THE MUNICIPAL RIGHTS-OF-WAY” OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF BYRAM. PURPOSE STATEMENT:** The purpose of this ordinance is to modify the Byram General Code as it relates to the siting of poles, cabinets and antennas in Township rights-of-way. As set forth in more detail below, companies are seeking to place small wireless facilities within the Township’s rights-of-ways. Recent Federal Communications Commission orders have constrained the way in which towns can regulate these facilities. The purpose of this ordinance is to regulate these facilities in compliance with these orders. This, in part, requires a broader regulation of all poles, cabinets and antennas within the Township’s rights-of-ways. The Township believes that this regulation is important and necessary to protect the lives and property of its citizens.

The ordinance was changed to “35’ above the grade around the pole....” Motion by Councilman Olson, second by Councilman Kash to introduce the ordinance. Harvey said that we should look at the State bill that is out there before we move forward. He stated in this ordinance we are not addressing cabinets and equipment, and we should be considering that. Scott stated that if we had something in place, we would have a little bit of control. Harvey feels we should address density of cabinets and antennas. Alex looked up Senate Bill 3752 and stated that there hasn’t been any action on it. It has been referred to the Senate Economic Growth Committee.

Joe stated that initially the Council gave direction to the special counsel that was hired to come up with an ordinance to get something on the books so that we would have regulations in place. Scott and Alex felt we should keep it moving.

	Councilman Gray	Councilwoman Kash	Councilman Olson	Councilman Roseff	Mayor Rubenstein
Motion			x		
2nd		x			
Yes		x	x	x	x
No					
Abstain					
Absent	x				

BE IT RESOLVED, that said Ordinance shall be further considered for final passage at the meeting of the Township Council of the Township of Byram on December 17th at 7:30 p.m. at the Municipal Building, 10 Mansfield Drive, Byram Township, at which time and place all persons interested shall be given an opportunity to be heard.

- **CREATING A NEW CHAPTER NUMBER 214 MUNICIPAL RIGHT-OF-WAY STRIP TO INCLUDE DUTIES OF OWNERS WITH RESPECT TO MAINTENANCE OF THE MUNICIPAL RIGHT OF WAY BETWEEN THE EDGE OF PAVEMENT AND PRIVATE PROPERTY**

Purpose Statement: The purpose of this Ordinance is to create a new Chapter placing the responsibility on the property owner for maintaining the Municipal right-of-way strip between the property owner’s lot line and the end of pavement.

Motion by Councilman Olson, second by Councilman to Introduce the ordinance.

	Councilman Gray	Councilwoman Kash	Councilman Olson	Councilman Roseff	Mayor Rubenstein
Motion			x		
2nd		x			
Yes		x	x	x	x
No					
Abstain					
Absent	x				

BE IT RESOLVED, that said Ordinance shall be further considered for final passage at the meeting of the Township Council of the Township of Byram on December 17th at 7:30 p.m. at the Municipal Building, 10 Mansfield Drive, Byram Township, at which time and place all persons interested shall be given an opportunity to be heard.

ITEMS FOR DISCUSSION

BPU – Joe and Alex reported on the meeting that they went to with the BPU several weeks ago. Elizabeth Town Gas has asked to postpone the December 5th meeting to the week of December 16.

Telecommunications meeting – Alex wanted to talk about pole attachment rights, Harvey wanted Century Link, Verizon and SECTV at the table. Harvey wanted to discuss bringing in modern telecommunications. Harvey asked if we could also include Planet Networks and Cablevision. Alex will reach out to BPU. Harvey is open for the first 2 weeks in January.

Scott Olson asked why JCPL reports the date and time that the power will be back on which are not true. He stated that they don’t know so they shouldn’t give times. Alex stated that we need to engage John Anderson, VP of JCPL, again to talk about this situation. Alex did say the JCPL took a lot of trees down in the past 6 months on several roads in Byram which helped. There weren’t outages in these areas because of this. Harvey stated that there needs to be conversation with JCP&L about replacing infrastructure—when workers come up from Ohio, Georgia, etc., they look at our infrastructure and say that they replaced infrastructure 20 years ago that we still have. Alex will reach out to Jackie Espinoza to see if we can get someone to come to the Council meeting to discuss this.

PUBLIC PARTICIPATION II

Motion by Councilman Olson, second by Councilwoman Kash to open to the Public

Jack Moran asked Alex to repeat the conversation on Elizabethtown Gas.

Motion by Councilman Olson, second by Councilwoman Kash to close to the public.

FUTURE AGENDA DISCUSSION ITEMS – No comments

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:

- a. Attorney Client Privilege Communication
 - General
 - Municipal Building Leasing Option

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

	Councilman Gray	Councilwoman Kash	Councilman Olson	Councilman Roseff	Mayor Rubenstein
Motion			x		
2nd		x			
Yes		x	x	x	x
No					
Abstain					
Absent	x				

Certification: I certify that the Byram Township Council adopted the above resolution on December 3, 2019.
Doris Flynn, Municipal Clerk

RETURN TO OPEN SESSION

ADJOURNMENT – Motion by Councilman Olson, second by Councilwoman Kash to adjourn at 11:00 p.m. All members in favor. Motion carried.

Doris Flynn, Municipal Clerk

Alexander Rubenstein, Mayor