

TOWNSHIP OF BYRAM  
COUNCIL AGENDA, TUESDAY, AUGUST 15, 2017  
EXECUTIVE SESSION – 7:00 P.M.  
REGULAR SESSION – 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 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. RESOLUTION FOR EXECUTIVE SESSION**

- a. Attorney Client Privilege Communication
  - General
  - Health Benefits
- b. Anticipated Litigation
  - Mid Atlantic Salt
- c. Personnel – Staffing
- d. Contract Negotiations

**5. RETURN TO OPEN SESSION**

**6. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENT REFLECTION**

**7. APPROVAL OF AGENDA**

**8. PROCLAMATION**

- Childhood Cancer Awareness Month

**9. REPORTS**

- Township Manager
- Mayor and Council Members
- Township Attorney

**10. 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.

**11. APPROVAL OF MINUTES**

- August 1, 2017 Regular Meeting Minutes
- August 1, 2017 Closed Session Minutes

**12. 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.125-2017 – Resolution Authorizing the Issuance of Bond Anticipation Notes Not to Exceed \$562,500 of the Township of Byram, in the County of Sussex, New Jersey
- B. Resolution No. 126-2017 – Resolution Regarding Support for the New Jersey Division of Parks and Forestry Grant Application to the New Jersey Department of Transportation for Funding through the Transportation Alternatives Grant Program – “Restoration of Three Morris Canal Related Historic Buildings in Waterloo Village”
- C. Resolution No. 127-2017 – A Resolution of the Township Council of the Township of Byram Authorizing the Sale of Surplus Personal Property No Longer Needed for Public Use on an Online Auction Website
- D. Resolution No. 128-2017 – Authorization to Execute Change Order No. I Township of Byram for Well Drilling, Development & Testing at Tamarack Park – Net Decrease \$1,999.00, Adjusted Contract Amount \$17,811.00
- E. Resolution No. 129-2017 – Final Acceptance of the Well Drilling, Development & Testing at Tamarack Park
- F. Resolution No. 130-2017 – Award of Bid to Contractors under the Morris County Cooperative Pricing Council for Proposed Improvements to Amity Road – Phase II – Tilcon, New York, Inc. - Not to exceed \$229,015 (Milling & Paving) and Denville Line Painting, Inc. \$10,324.00 (Roadway Striping)
- G. Resolution No. 131-2017 – Resolution Authorizing the Execution of a Five Year Shared Service Agreement for Municipal Participation in the Provision of E911 Emergency Communications System Management by the County of Sussex

**13. APPROVAL OF AUGUST 15, 2017 BILL LIST**

**14. ORDINANCE – 2<sup>nd</sup> Reading/Public Hearing**

- **Ordinance 17-2017** – Initiative Ordinance of the Mayor and Council of the Township of Byram, County of Sussex, State of New Jersey Repealing Ordinance #15-2017  
**Purpose Statement:** The purpose of this Initiative Ordinance is to repeal “Ordinance #15-2017 Bond Ordinance Providing for the Construction of a New Municipal Building in and by the Township of Byram, in the County of Sussex, New Jersey, Appropriating \$7,400,000 Therefor and Authorizing the Issuance of \$7,000,000 Bonds or Notes of the Township for Financing such Appropriation,” pursuant to N.J.S.A. 40:69A-184, *et seq.* and N.J.S.A. 40:69A-190.
- **Ordinance 18-2017** - An Ordinance to Add Article XVIII Defense and Indemnification, Sections 3-62 through 3-67 of the Code of the Township of Byram, Sussex County, New Jersey Regarding Defense and Indemnification  
**Purpose Statement:** The purpose of this ordinance is to authorize the Township to defend and indemnify past and present Township officials, employees and appointees against certain claims under specified circumstances and subject to exceptions.

**15. ITEMS FOR DISCUSSION**

**16. PUBLIC PARTICIPATION II**

**17. EXECUTIVE SESSION – Session II (if necessary)**

**18. ANY OTHER BUSINESS THE COUNCIL DEEMS NECESSARY**

**19. ADJOURNMENT**

**TOWNSHIP OF BYRAM  
SUSSEX COUNTY, NEW JERSEY  
CHILDHOOD CANCER AWARENESS MONTH  
PROCLAMATION**

**WHEREAS**, each year, pediatric cancer interrupts the childhood and limits the potential of thousands of young Americans, and it remains the leading cause of disease-related death for children; and

**WHEREAS**, September has been declared as National Childhood Cancer Awareness Month and in effort to raise awareness everyone is encouraged to go GOLD to show support and promote recognition of those young lives affected by cancer; and

**WHEREAS**, during Childhood Cancer Awareness Month, we come together to remember all those whose lives were cut short by pediatric cancer, to recognize the loved ones who know too well the pain it causes, and to support every child and every family battling cancer each day. We join with their loved ones and researchers, health care providers, and advocates who show support to them as we work toward a tomorrow where all children are able to pursue their full measure of happiness without the burden of cancer;

**NOW THEREFORE, BE IT PROCLAIMED**, by the Mayor and Council of the Township of Byram that we hereby recognize:

September 2017  
Childhood Cancer Awareness Month  
In the Township of Byram

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James Oscovitch  
Mayor of the Township of Byram  
August 15, 2017

**TOWNSHIP OF BYRAM  
SUSSEX COUNTY, NEW JERSEY  
RESOLUTION NO. 125-2017**

**RESOLUTION AUTHORIZING THE ISSUANCE OF BOND  
ANTICIPATION NOTES NOT TO EXCEED \$562,500 OF THE TOWNSHIP OF  
BYRAM, IN THE COUNTY OF SUSSEX, NEW JERSEY.**

BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF BYRAM, IN THE COUNTY OF SUSSEX, NEW JERSEY, AS FOLLOWS:

Section 1. Pursuant to a bond ordinance of The Township of Byram, in the County of Sussex (the "Township") entitled: "Bond ordinance providing for improvement of the sanitary sewerage system in and by the Township of Byram, in the County of Sussex, New Jersey, appropriating \$158,000 therefor and authorizing the issuance of \$158,000 bonds or notes of the Township for financing such appropriation", finally adopted on June 6, 2012 (#6-2012), bond anticipation notes of the Township in a principal amount not exceeding \$58,000 shall be issued for the purpose of temporarily financing the improvement or purpose described in Section 3 of said bond ordinance, including (to any extent necessary) the renewal of any bond anticipation notes heretofore issued therefor.

Section 2. Pursuant to a bond ordinance of the Township entitled: "Bond ordinance appropriating \$638,000, and authorizing the issuance of \$405,000 bonds or notes of the Township, for various improvements or purposes authorized to be undertaken by the Township of Byram, in the County of Sussex, New Jersey", finally adopted on May 17, 2016 (#18-2016), bond anticipation notes of the Township in a

principal amount not exceeding \$364,500 shall be issued for the purpose of temporarily financing the improvement or purpose described in Section 3 of said bond ordinance, including (to any extent necessary) the renewal of any bond anticipation notes heretofore issued therefor.

Section 3. Pursuant to a bond ordinance of the Township entitled: “Bond ordinance providing for the improvement of the sanitary sewerage system in and by the Township of Byram, in the County of Sussex, New Jersey, appropriating \$525,000 therefor and authorizing the issuance of \$498,000 bonds or notes of the Township for financing such appropriation”, finally adopted on May 17, 2016 (#19-2016), bond anticipation notes of the Township in a principal amount not exceeding \$140,000 shall be issued for the purpose of temporarily financing the improvement or purpose described in Section 3 of said bond ordinance, including (to any extent necessary) the renewal of any bond anticipation notes heretofore issued therefor.

Section 4. All bond anticipation notes (the “notes”) issued hereunder shall mature at such times as may be determined by the treasurer, the chief financial officer or the acting chief financial officer of the Township (the “Chief Financial Officer”), provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer and shall be signed and sealed by officials and officers of the Township in any manner permitted by N.J.S.A. §40A:2-25. The Chief Financial Officer shall determine all matters in connection with the notes issued hereunder, and the Chief Financial Officer’s signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to

the provisions of N.J.S.A. §40A:2-8. The Chief Financial Officer is hereby authorized to sell part or all of the notes at not less than par from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price. The Chief Financial Officer is directed to report in writing to the governing body of the Township at the meeting next succeeding the date when any sale or delivery of the notes hereunder is made. Such report must include the principal amount, interest rate and maturities of the notes sold, the price obtained and the name of the purchaser.

Section 5. Any note issued pursuant to this resolution shall be a general obligation of the Township, and the Township's faith and credit are hereby pledged to the punctual payment of the principal of and interest on the notes and, unless otherwise paid or payment provided for, an amount sufficient for such payment shall be inserted in the budget and a tax sufficient to provide for the payment thereof shall be levied and collected.

Section 6. The Chief Financial Officer is hereby authorized and directed to do all other matters necessary, useful, convenient or desirable to accomplish the delivery of the notes to the purchasers thereof as promptly as possible, including (i) the preparation, execution and dissemination of a Preliminary Official Statement and Final Official Statement with respect to the notes, (ii) preparation, distribution and publication, if necessary, of a Notice of Sale with respect to the notes, (iii) execution of a Continuing Disclosure Undertaking, with respect to the notes in accordance with Rule 15c2-12 promulgated by the Securities and Exchange Commission and (iv) execution of an arbitrage and use of proceeds certificate certifying that, among other things, the Township, to the extent it is empowered and allowed under applicable law,

will do and perform all acts and things necessary or desirable to assure that interest paid on the notes is not included in gross income under Section 103 of the Internal Revenue Code of 1986, as amended.

Section 7. All action heretofore taken by Township officials and professionals with regard to the sale and award of the notes is hereby ratified, confirmed, adopted and approved.

Section 8. This resolution shall take effect immediately.

Upon motion of \_\_\_\_\_, seconded by \_\_\_\_\_, the foregoing resolution was adopted by the following vote:

**AYES:**

**NOES:**

\_\_\_\_\_  
Doris J. Flynn, RMC

Adopted: August 15, 2017

**TOWNSHIP OF BYRAM  
RESOLUTION NO. 126 – 2017**

**RESOLUTION REGARDING  
SUPPORT FOR THE NEW JERSEY DIVISION OF PARKS AND FORESTRY GRANT  
APPLICATION TO THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR FUNDING  
THROUGH THE TRANSPORTATION ALTERNATIVES GRANT PROGRAM - "RESTORATION OF  
THREE MORRIS CANAL RELATED HISTORIC BUILDINGS IN WATERLOO VILLAGE"**

**WHEREAS**, the NJ Division of Parks and Forestry is applying for funding from the New Jersey Department of Transportation, Division of Local Aid and Economic Development under the Transportation Alternatives Program which will provide funding for the restoration of three historic buildings in the heart of Waterloo Village Historic Site; and

**WHEREAS**, the proposed project includes the restoration of the Tenant House, which will offer the public a heightened understanding of the living conditions of the working class/laborer individuals and families who would have rented an apartment in the "company owned" two-family residence; and

**WHEREAS**, the project will also include the restoration of the Seymour R. Smith house, which will physically show how members of the Smith family, who settled and oversaw the development of this once thriving canal village, would have lived in a high-style Italianate styled house; and

**WHEREAS**, the proposed project will also include the restoration of the Waterloo Hotel, which will show the public what the village had to offer the traveling public in terms of overnight accommodations and board.

**WHEREAS**, the Township of Byram supports the NJ Division of Parks and Forestry efforts to stabilize and restore these three buildings in the Village of Waterloo, which will encourage use of these facilities by the public, and enhance the public's understanding of life in this historic canal village in the mid-nineteenth century; and

**WHEREAS**, in supporting the NJ Division of Parks and Forestry initiatives the Township of Byram is desirous of having the Waterloo Village complex, which is included on both the New Jersey and National Registers of Historic Places, provide the public with an expanded opportunity to interpret the history of the village, which played a major role in the history of Sussex County; and

**WHEREAS**, the Township Council of the Township of Byram fully supports the New Jersey Division of Parks and Forestry submission of this grant application identified as "*RESTORATION OF THREE MORRIS CANAL RELATED HISTORIC BUILDINGS IN WATERLOO VILLAGE*" for the Transportation Alternatives Program within the State of New Jersey Department of Transportation for the above stated project.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Byram that it does hereby state its' support for this grant application being submitted to the N.J. Division of Parks and Forestry identified as "*RESTORATION OF THREE MORRIS CANAL RELATED HISTORIC BUILDINGS IN WATERLOO VILLAGE*" for the Transportation Alternatives Program within the State of New Jersey Department of Transportation.

**BE IT FURTHER RESOLVED** that certified copies of this Resolution with original signatures be provided to Andrea L. Proctor, Resource Interpretive Specialist, Waterloo Village Historic Site to be included in the application to the New Jersey Department of Transportation.

**BYRAM TOWNSHIP COUNCIL**

	Councilwoman Raffay	Councilman Gray	Councilman Olson	Councilwoman Kash	Mayor Oscovitch
Motion					
2nd					
Yes					
No					
Abstain					
Absent					

Certified as a true copy of a Resolution adopted by the  
Byram Township Council on the 15<sup>th</sup> day of August, 2017

\_\_\_\_\_  
Doris Flynn, Township Clerk

**TOWNSHIP OF BYRAM  
SUSSEX COUNTY, NEW JERSEY  
RESOLUTION NO. 127 - 2017**

**A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF  
BYRAM AUTHORIZING THE SALE OF SURPLUS PERSONAL PROPERTY NO  
LONGER NEEDED FOR PUBLIC USE ON AN ONLINE AUCTION WEBSITE**

WHEREAS, the Township of Byram has determined that the property described on Schedule A attached hereto and incorporated herein is no longer needed for public use; and

WHEREAS, the Local Unit Technology Pilot Program and Study Act (P.L. 2001, c. 30) authorizes the sale of surplus personal property no longer needed for public use through the use of an online auction service; and

WHEREAS, the Township of Byram intends to utilize the online auction services of GovDeals located at GovDeals.com; and

WHEREAS, the sales are being conducted pursuant to the Division of Local Government Services' Local Finance Notice 2008-9,

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Byram in the County of Sussex, State of New Jersey, that the Township is hereby authorized to sell the surplus personal property as indicated on Schedule A on an online auction website entitled GovDeals.com; and

BE IT FURTHER RESOLVED, that the terms and conditions of the agreement entered into between GovDeals and the Township of Byram are available at GovDeals.com and in the Township Clerk's office; and

BE IT FURTHER RESOLVED, that a certified copy of the within Resolution be forwarded by the Township Clerk to the Chief Financial Officer, DPW Superintendent, Chief of Police, and the Township Auditor of Byram Township and the Director of the Division of Local Government Services.

**BYRAM TOWNSHIP COUNCIL**

	Councilwoman Raffay	Councilman Gray	Councilman Olson	Councilwoman Kash	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 August 15, 2017.

\_\_\_\_\_  
Doris Flynn, RMC  
Township Clerk



## SCHEDULE A

2005 Ford F350 Vin# 1FDWF31P96EA57231

### Miscellaneous DPW Equipment:

12'x18' Flat Bed Body

20 Yd Roll Off Container with Salt Spreader

30 Yd Roll Off Container

9' Curtis Snow Pro 3000 Snow Plow

9' Volk Snow Plow

Hi Way P-8 Salt Spreader

(3) 11' Gled Hill Snow Plow(s)

Hydraulic Broom

(2) FS 110 Stihl Weed Wacker(s)

(2) FS 110 RX Weed Wacker(s)

Billy Goat 8hp Push Blower

Troy Built 8hp Tiller

**TOWNSHIP OF BYRAM  
RESOLUTION NO. 128-2017**

**AUTHORIZATION TO EXECUTE CHANGE ORDER NO. 1  
TOWNSHIP OF BYRAM FOR WELL DRILLING, DEVELOPMENT &  
TESTING AT TAMARACK PARK**

WHEREAS, the Township of Byram (Owner) and HRS Drilling Co., Inc (Contractor) entered into an Agreement for Well Drilling, Development & Testing at Tamarack Park in the amount of \$19,810.00 as stated in Resolution 114-2017; and

WHEREAS, in the process of completing the work, certain changes were authorized by the Owner as detailed in Change Order No. 1; and

WHEREAS, the revised work was negotiated between the engineer Harold Pellow & Associates and the Contractor and was found to require a net reduction of \$1,999.00.

NOW, THEREFORE, BE IT RESOLVED by the Township of Byram in the County of Sussex, State of New Jersey to authorize the Mayor to execute Change Order No. 1 resulting in a net decrease of \$1,999.00, resulting in an adjusted contract price of \$17,811.00

**BYRAM TOWNSHIP COUNCIL**

COUNCIL MEMBER	Councilwoman Raffav	Councilman Gray	Councilman Olson	Councilwoman Kash	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 August 15, 2017.

\_\_\_\_\_  
Doris Flynn, RMC  
Township Clerk

**TOWNSHIP OF BYRAM  
RESOLUTION NO. 129-2017**

**FINAL ACCEPTANCE OF THE WELL DRILLING, DEVELOPMENT &  
TESTING AT TAMARACK PARK**

WHEREAS, on July 11, 2017, by adoption of Resolution No. 114-2017 the Byram Township Council, County of Sussex, State of New Jersey, awarded a contractor HRS Drilling Co., Inc in the amount of \$19,810.00 for Well Drilling, Development & Testing at Tamarack Park; and

WHEREAS, on August 15, 2017 a change order was authorized by Resolution No. 128-2017 for a net decrease of \$1,999.00 adjusting the contract amount for Well Drilling, Development & Testing at Tamarack Park to \$17,811.00; and

WHEREAS, in the Township Engineer's memo dated August 8, 2017, he recommended that said project be accepted.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor & Council of the Township of Byram, County of Sussex, State of New Jersey, that it hereby concurs with the Township Engineer's recommendation and accepts the Well Drilling, Development & Testing at Tamarack Park.

**BYRAM TOWNSHIP COUNCIL**

	Councilwoman Raffay	Councilman Gray	Councilman Olson	Councilwoman Kash	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 August 15, 2017.

\_\_\_\_\_  
Doris Flynn, Municipal Clerk

**TOWNSHIP OF BYRAM  
SUSSEX COUNTY, NEW JERSEY  
RESOLUTION NO. 130 - 2017**

**Award of Bid to Contractors under the Morris County Cooperative Pricing Council For  
Proposed Improvements to Amity Road – Phase II**

**WHEREAS**, the Morris County Cooperative Pricing Council advertised and received bids for roadway milling, paving and roadway striping; and

**WHEREAS**, the bids received allowed for vendors to extend their pricing to municipalities who are a member of the Morris County Cooperative Pricing Council, a State regulated County Contract Purchasing System;

**NOW, THEREFORE, BE IT RESOLVED** that the Township Council of the Township of Byram does hereby authorize the use of the Morris County Cooperative Pricing Council bids for the following contracts:

- 1.) Milling & Paving: Tilcon, New York, Inc. (Contract #6) in an estimated amount of \$229,015.00
- 2.) Roadway Striping: Denville Line Painting, Inc. (Contract #36) in an estimated amount of \$10,324.00

**BE IT FURTHER RESOLVED**, that the award is subject to the NJDOT’s Final approval; and

**BE IT FURTHER RESOLVED**, that upon receipt, inspection and approval of voucher therefore by the Township of Byram, payment, pursuant to said purchase order, is hereby authorized with the same to be charged against NJDOT Grant and Capital Ordinance #12-2017 for said purpose; and

**BE IT FURTHER RESOLVED**, that certified copies of this Resolution be forwarded to the Morris County Cooperative Pricing Council, Municipal Treasurer, and the Municipal Clerk.

**BYRAM TOWNSHIP COUNCIL**

	Councilwoman Raffay	Councilman Gray	Councilman Olson	Councilwoman Kash	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 August 15, 2017.

\_\_\_\_\_  
Doris Flynn, Township Clerk

**TOWNSHIP OF BYRAM  
RESOLUTION NO. 131 – 2017**

**RESOLUTION AUTHORIZING THE EXECUTION OF A FIVE YEAR  
SHARED SERVICE AGREEMENT FOR MUNICIPAL PARTICIPATION IN  
THE PROVISION OF E911 EMERGENCY COMMUNICATIONS SYSTEM  
MANAGEMENT BY THE COUNTY OF SUSSEX**

WHEREAS, Byram Township has entered into a five-year shared service agreement effective January 1, 2018 through December 31, 2022 for municipal participation in the provision of E911 Emergency Communication System Management by the County of Sussex; and

WHEREAS, the attached agreement has been mutually agreed upon by both parties.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Byram, County of Sussex, State of New Jersey that the Mayor, Clerk and Township Manager are hereby authorized to execute any and all documents associated with the E911 Emergency Communication System Management by and between the County of Sussex and Byram Township.

**BYRAM TOWNSHIP COUNCIL**

<b>COUNCIL MEMBER</b>	<i>Councilman Luaces</i>	<i>Councilwoman Raffa</i>	<i>Councilman Olson</i>	<i>Councilwoman Kash</i>	<i>Mayor Oscovitch</i>
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 August 15, 2017.

\_\_\_\_\_  
Doris Flynn, Municipal Clerk

**TOWNSHIP OF BYRAM  
ORDINANCE NO. 17 - 2017**

**INITIATIVE ORDINANCE OF  
THE MAYOR AND COUNCIL  
OF THE TOWNSHIP OF BYRAM, COUNTY OF SUSSEX,  
STATE OF NEW JERSEY  
REPEALING ORDINANCE #15-2017**

**Purpose Statement:** The purpose of this Initiative Ordinance is to repeal "Ordinance #15-2017 Bond Ordinance Providing for the Construction of a New Municipal Building in and by the Township of Byram, in the County of Sussex, New Jersey, Appropriating \$7,400,000 Therefor and Authorizing the Issuance of \$7,000,000 Bonds or Notes of the Township for Financing such Appropriation," pursuant to N.J.S.A. 40:69A-184, et seq. and N.J.S.A. 40:69A-190.

**WHEREAS,** the Mayor and Council of the Township of Byram, by this Initiative Ordinance, intend to consider repealing Ordinance #15-2017 by second reading in accordance with N.J.S.A. 40:69A-184, et seq. and in particular Section 190, by second reading after public hearing of an Ordinance that was introduced by a Petition of a Committee of Petitioners to repeal Ordinance #15-2017.

**NOW, THEREFORE, BE IT ORDAINED** as follows:

**SECTION 1. Repeal of Ordinance #15-2017.**

Ordinance #15-2017, entitled "Bond Ordinance Providing for the Construction of a New Municipal Building in and by the Township of Byram, in the County of Sussex, New Jersey, Appropriating \$7,400,000 therefor and Authorizing the Issuance of \$7,000,000 Bonds or Notes of the Township for Financing Such Appropriation," is hereby repealed in its entirety.

**SECTION 2. Repealer Statement.**

All Ordinances or parts of Ordinances or Resolutions inconsistent or in opposition to the provisions of this ordinance are hereby repealed in their entirety.

**SECTION 3. Effective date.** This Initiative Ordinance shall take effect after its final passage and publication as required by law.

**BY ORDER OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF BYRAM**

INTRODUCED: By Petition for Initiative

ADOPTED: August 15, 2017

**BYRAM TOWNSHIP COUNCIL**

	Councilwoman Raffay	Councilman Gray	Councilman Olson	Councilwoman Kash	Mayor Oscovitch
Motion					
2nd					
Yes					
No					
Abstain					
Absent					

\_\_\_\_\_  
Doris J. Flynn, Township Clerk

\_\_\_\_\_  
James Oscovitch, Mayor

**NOTICE OF ADOPTION**

Notice is hereby given that Ordinance #17-2017 Repealing Ordinance #15-2017 was adopted after public hearing at a meeting of the Mayor and Council of the Township of Byram, County of Sussex, State of New Jersey, on the 15<sup>th</sup> day of August, 2017 at 7:30 p.m. at which time all persons were given the opportunity to be heard.

BYRAM TOWNSHIP  
Doris J. Flynn, Township Clerk

**TOWNSHIP OF BYRAM**

**ORDINANCE # 18 -2017**

**AN ORDINANCE TO ADD ARTICLE XVIII DEFENSE AND INDEMNIFICATION,  
SECTIONS 3-62 THROUGH 3-67  
OF THE CODE OF THE TOWNSHIP OF BYRAM,  
SUSSEX COUNTY, NEW JERSEY  
REGARDING DEFENSE AND INDEMNIFICATION**

**Purpose Statement:** The purpose of this ordinance is to authorize the Township to defend and indemnify past and present Township officials, employees and appointees against certain claims under specified circumstances and subject to exceptions.

**BE IT ORDAINED**, by the Mayor and Council of the Township of Byram in the County of Sussex, State of New Jersey, that Chapter 3 of the Code of the Township is hereby amended as follows:

**Section 1.** Chapter 3 is hereby amended to add ARTICLE XVIII Defense and Indemnification, Sections 3-62 through 3-67 as follows:

**Article IV: Defense and Indemnification**

**3-62. Applicability.** Except as hereinafter provided, the Township of Byram, hereinafter known as the Township shall, upon the request of any present or former official, employee or appointee of the Township, provide for indemnification and legal defense of any civil action brought against said person or persons arising from an act or omission falling within the scope of their public duties.

**3-63. Limitations.** The Township shall not indemnify any person against the payment of punitive damages, penalties, or fines, but may provide for the legal defense of such claims in accord with the standards set forth herein. The Township may refuse to provide for the defense and indemnification of any civil action referred to herein if the Byram Township Council determines that a) the act or omission did not occur within the scope of a duty authorized or imposed by law; b) the act or failure to act was the result of actual fraud, willful misconduct or actual malice of the person requesting defense and indemnification; or c) the defense of the action or proceeding by the Township would create a conflict of interest between the Township and the person or persons involved.

**3-64. Definitions.** The terms of this ordinance and the definition of official, employee and appointee are to be construed liberally in order to effectuate the purposes of this ordinance except that these terms shall not mean a) any person who is not a natural person; b) any person while providing goods or services of any kind under any contract with the Township except an employment contract; c) any person while providing legal or engineering services for compensation unless said person is a full-time employee of the Township; and d) any person who as a condition of his or her appointment or contract is required to indemnify and defend the Township and/or secure insurance.

**3-65. Civil Actions.** The Township shall provide for defense of and indemnify any present or former official, employee or appointee of the Township who becomes a defendant in a civil action if the person or persons involved a) acted or failed to act in a matter in which the Township has or had an interest; b)



acted or failed to act in the discharge of a duty imposed or authorized by law; and c) acted or failed to take action in good faith. For purposes of this ordinance, the duty and authority of the Township to defend and indemnify shall extend to a cross-claim or counterclaim against said person.

**3-66. Other Actions.** In any other action or proceeding, including criminal proceedings, the Township may provide for the defense of a present or former official, employee or appointee, if the Byram Township Council concludes that such representation is in the best interest of the Township and that the person to be defended acted or failed to act in accord with the standards set forth in this ordinance.

**3-67. Control of Defense; Choice of Counsel.**

- A. Whenever the Township provides for the defense of any action set forth herein and as a condition of such defense, the Township may assume exclusive control over the representation of such persons defended and such person shall cooperate fully with the Township.
- B. The Township may provide for the defense pursuant to this ordinance by authorizing its attorney to act in behalf of the person being defended or by employing other counsel for this purpose or by asserting the right of the Township under any appropriate insurance policy that requires the insurer to provide defense.

Section 2. All ordinances of the Township of Byram which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Section 3. If any provision of this ordinance is declared to be invalid by a court of competent jurisdiction, this declaration shall not affect the remainder of the ordinance.

Section 4. This ordinance shall take effect upon final passage and publication as provided by law.

**BYRAM TOWNSHIP COUNCIL**

**Attest:**

\_\_\_\_\_  
Doris J. Flynn, Township Clerk

\_\_\_\_\_  
James Oscovitch, Mayor

Introduced: 8-1-2017

Adopted: 8-15-2017

	Councilwoman Raffay	Councilman Gray	Councilman Olson	Councilwoman Kash	Mayor Oscovitch
Motion					
2nd					
Yes					
No					
Abstain					
Absent					

**NOTICE OF ADOPTION**

**NOTICE** is hereby given that Ordinance 18-2017 was introduced and passed first reading at a meeting of the Township Council of the Township of Byram, held at the Byram Township Municipal Building, Mansfield Drive, Byram Township, New Jersey, on the 1st day of August, 2017. The said ordinance was further considered for final adoption at a meeting of the Township Council of The Township of Byram, held at the Byram Municipal Building, 10 Mansfield Drive, Byram Township, New Jersey, on the 15th day of August 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.

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Doris Flynn, Township Clerk