

**TOWNSHIP OF BYRAM  
TOWNSHIP COUNCIL MEETING  
SEPTEMBER 5, 2023  
EXECUTIVE SESSION – 6:30 P.M.  
REGULAR SESSION - 7:30 P.M.**

**CALL MEETING TO ORDER** – Mayor Rubenstein called the meeting to order.

**OPEN PUBLIC MEETING STATEMENT**

This meeting is called pursuant to the provisions of the Open Public Meetings Act. Both adequate and electronic notice of the meeting has been provided, specifying the time, place. In addition, a copy of this notice is available to the public and is on file in the office of the Municipal Clerk, posted on the main door, the bulletin board of the Municipal Building, on the Township website at: [https://www.byramtwp.org/index.php/town\\_hall/township\\_council](https://www.byramtwp.org/index.php/town_hall/township_council), and has been forwarded to those persons requesting notice.

**ROLL CALL OF THE TOWNSHIP COUNCIL** – Councilman Bonker, here; Councilwoman Franco, here; Councilman Gallagher, absent; Councilman Roseff, here; Mayor Rubenstein, here. Also present was Township Manager Joseph Sabatini, Attorney Tom Collins and Township Clerk, Cynthia Church

**RESOLUTION FOR EXECUTIVE SESSION** – Motion by Councilman Bonker, second by Councilwoman Franco, to go into executive session 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.

- a) Attorney Client Privilege Communication
  - General
  - Chapter 182-6 Permits
- b) Contract Negotiations
  - LES
- c) Litigation

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:

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

**BYRAM TOWNSHIP COUNCIL**

Certification: I certify that the Byram Township Council adopted the above resolution on September 5, 2023.

Cynthia Church, Municipal Clerk

|         | Councilman Bonker | Councilwoman Franco | Councilman Gallagher | Councilman Roseff | Mayor Rubenstein |
|---------|-------------------|---------------------|----------------------|-------------------|------------------|
| Motion  | x                 |                     |                      |                   |                  |
| 2nd     |                   | x                   |                      |                   |                  |
| Yes     | x                 | x                   |                      | x                 | x                |
| No      |                   |                     |                      |                   |                  |
| Abstain |                   |                     |                      |                   |                  |
| Absent  |                   |                     | x                    |                   |                  |

**RETURN TO OPEN SESSION** - Motion by Councilman Bonker, second by Councilwoman Franco to return to open session at 7:03 p.m. All members were in favor. Motion Carried.

**FLAG SALUTE**

**APPROVAL OF AGENDA** – Motion by Councilwoman Franco second by Councilman Bonker to approve the agenda.

|         | Councilman Bonker | Councilwoman Franco | Councilman Gallagher | Councilman Roseff | Mayor Rubenstein |
|---------|-------------------|---------------------|----------------------|-------------------|------------------|
| Motion  |                   | x                   |                      |                   |                  |
| 2nd     | x                 |                     |                      |                   |                  |
| Yes     | x                 | x                   |                      | x                 | x                |
| No      |                   |                     |                      |                   |                  |
| Abstain |                   |                     |                      |                   |                  |
| Absent  |                   |                     | x                    |                   |                  |

**TOWNSHIP MANAGER, MAYOR, AND COUNCIL REPORTS**

**Township Manager** – Byram Fest will be held on Saturday, September 9th. There will be food trucks, live music, rides, and fireworks. The BAN Sale was held on 9/1 where they received 3 proposals. The lowest bidder was at 4.5767% for a

9-Month BAN. There was a preconstruction meeting for the Basketball Court with a target start of next Monday and a 30-day window for completion.

**Mayor Rubenstein** – Mayor Rubenstein provided an update on DOT North Shore / Rt. 206 intersection, they will start pulling up existing striping and restriping the following week.

**Councilman Bonker** – Sunday is the Shoprite bag for hunger between noon and 2pm. Happy to announce that they will be accepting the increase grant from the Highlands to get the engineer for CO Johnson phase one, will and approve F&P for the Engineering work.

**Councilwoman Franco** – August 17<sup>th</sup> was the Planning Board meeting where there were 3 residential hearings that were all approved. Will be at Shoprite for the Bag for Hunger event.

**Councilman Roseff** – Beefsteak will be held on September 8<sup>th</sup>.

## **PUBLIC PARTICIPATION I**

Motion by Councilwoman Franco, Second by Councilman Bonker to open to the public.

Andrew Schwarts – the following statement was read into the record:

*Thank you, members of the Town Council, for allowing my wife and I time to address an extremely important issue.*

*We live at 63 Lee Hill Rd, having moved to the Township from Andover in 2022. We found a beautiful home, after a two-year search, backed by woods back that seemed like a serene oasis to us, and in an area convenient to Lake Mohawk and with easy access to RT's 15 and 206. The home was a perfect choice for us, given the location and the peaceful surroundings. Having, myself, lived in Sussex County for over 30 years, it has always been a place where one could enjoy peace, be it inside or outside your home. In our case, in Byram, this hasn't been possible.*

*Unfortunately for us, the seller didn't warn us about the adjacent property owner and their penchant for creating noise. Loud noise, be it music, lawn equipment, barking dogs, and the like. During the day and into the evening, sometimes as late 9:30 PM. And, given the geometry of the two properties, we are maximally impacted vs. other neighbors. The back of their house directly faces the back of our backyard and side of our house. Their outdoor speakers are mounted high on their house and directly face our property. Our neighbors play music regularly, every few days, loud enough that it drowns out the noise of our neighbor's lawn equipment and our own music.*

*Trying to be non-confrontational, we installed a six-foot privacy fence and a shed to try to block as much of the noise as we could. This was an extremely expensive unplanned expense with limited results.*

*Upon investigation, we found a Noise ordinance, Chapter 171 of the Municipal Code, that is supposed to protect residents from excessive noise. The ordinance explicitly sets limits for residential-to-residential noise between the hours of 7:00 AM - 10:00 PM and from 10:00 PM - 7:00 AM. There is a fine of up to \$3000 per violation and the sound levels are set in decibels as measured by a Noise Control Officer using proper equipment.*

*We have called the police department in the past when the sound has exceeded reasonable levels. Our definition of reasonable is when my wife can't work inside our own home because the neighbor's music is so loud indoors during the workday as to cause her emotional stress.*

*We have been forced to move her location inside our home due to the neighbor's intrusion into our home through their loud music. This is not right. The police department has dispatched in the past to speak with the neighbor with minimal result. Now, the police will not dispatch anyone at all. After bringing this to the attention of the Chief of Police, he told me, "...the section on decibel level and noise officer is unenforceable. The Police Department or the township zoning does not Have a certified noise officer and there is no plan to certify someone as it is operationally infeasible."*

*We, and any other resident suffering a noise issue, are in a tough position as the Township has a municipal ordinance on the books that is unenforceable and provides zero reasonable protection for residents to be able to peacefully enjoy their property free from excessive noise.*

*In the case of our neighbor, where personal requests and those from BTPD patrol officers haven't worked, the situation has gotten worse. Since we've been informed that the police department will no longer dispatch an officer before 10pm, our neighbors are now playing music louder and more frequently.*

*There is no reason to have music that loud playing from outside speakers. There are many other options if they'd like to listen to music while working in their yard without disturbing the peace with permanently mounted external speakers.*

*The neighboring communities of Sparta and Hopatcong both have ordinances that explicitly state,*

*"Radio and Television Sets, Phonographs, etc. The use of radio or television receiving sets, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants or at any time with volume louder than is necessary for convenient hearing for the persons who are in the room or vehicle in which such machine or device is operated and who are voluntary listeners thereto."*

*This is very reasonable language that allows for some flexibility when it comes to enforcement. No such protection exists within the Byram Township's code nor is the Township's code enforceable, as written. There is no protection, whatsoever, for residents. We are left to suffer without recourse other than to hire an expensive attorney who can try, usually unsuccessfully, to get a civil conviction.*

*This is extremely unfair, and we ask the Town Council to consider adopting more protective language in the Noise Code, mirroring our neighboring communities, that can be used by the Police Department to give residents, who value and respect their own and neighbors' right to peace, an avenue to pursue when excessive noise is being produced - that any reasonable person would consider a disturbance of the peace.*

*Thank you.*

Luanne Byrne – expressed concerns about the resolution for the Fire Department. Mr. Sabatini explains the existing vehicle is over 10 years old and is due for a new vehicle. The funding is coming out of money that has been in reserve to be used for this purpose.

Motion by Councilman Bonker, second by Councilwoman Franco to close to the public.

**APPROVAL OF MINUTES**

August 15, 2023 Regular & Closed Session Minutes - Motion by Councilwoman Franco, seconded by Councilman Bonker to approve the minutes.

|                 | Councilman Bonker | Councilwoman Franco | Councilman Gallagher | Councilman Roseff | Mayor Rubenstein |
|-----------------|-------------------|---------------------|----------------------|-------------------|------------------|
| Motion          |                   | x                   |                      |                   |                  |
| 2 <sup>nd</sup> | x                 |                     |                      |                   |                  |
| Yes             | x                 | x                   |                      | x                 | x                |
| No              |                   |                     |                      |                   |                  |
| Abstain         |                   |                     |                      |                   |                  |
| Absent          |                   |                     | x                    |                   |                  |

**CONSENT AGENDA** – All are considered to be routine by the Members of the Township Council and will be enacted on by one motion. Motion by Councilman Bonker, Second by Councilwoman Franco to approve the consent agenda

- A. Resolution No. 164-2023 – Final Acceptance of Bituminous Chip Sealing (Oil & Stone) Resurfacing of Various Streets
- B. Resolution No. 165-2023 – Resolution Authorizing the Acceptance of an Amended Plan Conformance Grant, Highlands Council Grant Number 09-033-01-1904, Task 15A – Open Space & Recreation Plan for Design Engineering Work in Support of the CO Johnson Park Improvement Plan - \$137,790.00
- C. Resolution No. 166-2023 - Chapter 159 – Highlands Conformance Grant \$122,250.00
- D. Resolution No. 167-2023 – Authorizing Appointment and Award of a Professional Service Contract to French & Parrello Associates for the Byram Township Dog Park & CO Johnson Park Improvements – Not to Exceed \$137,790.00
- E. Resolution No. 168-2023 – Authorize the Purchase of One (1) 2023 Chevrolet Tahoe Pursuit 4WD with Optional Equipment for the Township of Byram Police Department – Not to Exceed \$49,022.85
- F. Resolution No. 169-2023 – Resolution Authorizing Contracts with Certain Approved State Contract Vendors for Contracting Units Pursuant to N.J.S.A. 40A:11-12 and N.J.A.C. 5:34-7-29
- G. Resolution No. 170-2023 – Canceling Outstanding Checks – Rizzo’s Wildlife Discovery, LLC \$450.00
- H. Resolution No. 171-2023 – Resolution for 100% Exempt Veteran Owner of Block 255 Lot 1 Partial Cancellation of Taxes for 2023 and the first half of 2024 “Authorizing Partial Taxes be Remitted (Cancelled) for 2023/2023 – 175 Lake Drive
- I. Resolution No. 172-2023 – Resolution Authorizing 100% Disabled Veteran Exempt Status to Owner of Block 255, Lot 1 Partial Refund of Taxes Paid for 3<sup>rd</sup> Quarter in 2023 – 175 Lake Drive
- J. Resolution No. 173-2023 – Resolution of Acceptance of a Donation from Adam Lloyd Wein Boy Scout Troop 276 to the Township of Byram to Improve the Newly Established Johnson / Cranberry Overlook Trailhead
- K. Resolution No. 174-2023 – Amending Resolution to Purchase Rock Salt under the Sussex County Cooperative Pricing System for Budget Year 2023
- L. Resolution No. 175-2023 – Resolution of the township of Byram, County of Sussex, Sate of New Jersey “Authorizing A Refund for Duplicate Payment for 3<sup>rd</sup> Quarter 2023” – Block 337.11 Lot 31, 530 Stanhope Road
- M. Resolution No. 176-2023 – Resolution Approving the Contract for the Conveyance of Block 181, Lot 24 in the Township of Byram to Buyers Enrico and Susan Bencivenga and Authorizing the Mayor, Clerk and Manager to Execute the Contract any and all other Documents Required for this Conveyance
- N. Resolution No. 177-2023 - Authorize the Purchase of One (1) 2023 Chevrolet Tahoe SSV 4WD 5W4 with Optional Equipment for the Township of Byram Fire Department – Not to Exceed \$42,724.00

|                 | Councilman Bonker | Councilwoman Franco | Councilman Gallagher | Councilman Roseff | Mayor Rubenstein |
|-----------------|-------------------|---------------------|----------------------|-------------------|------------------|
| Motion          | x                 |                     |                      |                   |                  |
| 2 <sup>nd</sup> |                   | x                   |                      |                   |                  |
| Yes             | x                 | x                   |                      | x                 | x                |
| No              |                   |                     |                      |                   |                  |

|         |  |  |   |  |  |
|---------|--|--|---|--|--|
| Abstain |  |  |   |  |  |
| Absent  |  |  | x |  |  |

**BILL LIST – September 5, 2023 – Motion by Councilwoman Franco, second by Councilman Bonker to approve the bill list.**

|                 | Councilman Bonker | Councilwoman Franco | Councilman Gallagher | Councilman Roseff | Mayor Rubenstein |
|-----------------|-------------------|---------------------|----------------------|-------------------|------------------|
| Motion          |                   | x                   |                      |                   |                  |
| 2 <sup>nd</sup> | x                 |                     |                      |                   |                  |
| Yes             | x                 | x                   |                      | x                 | x                |
| No              |                   |                     |                      |                   |                  |
| Abstain         |                   |                     |                      |                   |                  |
| Absent          |                   |                     | x                    |                   |                  |

**ITEMS FOR DISCUSSION:**

**2024 Budget Goals and Objectives / APR Funding -**

Councilman Bonker - said that majority of the council agrees on most of the items and would like to stay under the 2% cap. Most of the budget goals will be determined by the November referendum. If the referendum fails, the APR money would be a good source to use toward the repairs that would be needed for the current municipal building structure, otherwise he would like to see C.O. Johnson 8 to be repaired using the APR money.

Councilwoman Franco – Would like to get the Municipal Building across the finish line and use the APR money for that. If the referendum does not pass in November, would like to use the ARP money for current repairs. Would like to see a 911 memorial for our first responders and use with ARP money for that.

Councilman Roseff – Would like to see the roads in the township funded as he feels that the roads are in maintenance mode. Roads should take priority over a Municipal Building. Would like to start investing in the infrastructure at our fields, in specific, field 8.

Mayor Rubenstein – Would like to see more funds being allocated to support Recreation. Would like to keep from using the fund balance. Would like to use some of the APR funds on C.O. Johnson 8. If the referendum does fail, they will need to discuss further on how to fund the repairs that will be needed to the existing municipal building.

Mr. Sabatini – Explained that a Capital plan and a survey of all the streets and road was done. Next year there will be many sizable projecting in the upcoming years. There have been many obstacles along the way with both water issues and gas, that caused a delay in paving.

Councilman Bonker – asked Mr. Sabatini if he foresees any large increases coming up for 2024.

Mr. Sabatini expects to see increases in healthcare and pensions.

Councilman Bonker and Councilwoman Bonker want to see the ARP funds to be used towards the repairs of the current municipal building should the referendum fail. Councilman Roseff was not in agreeance and would like the ARP funds to go towards the fields.

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Motion by Councilman Roseff, seconded by Councilwoman Franco to authorize the mayor to send a letter to the DEP for the Cranberry Lake footbridge historical district designation.

**FUTURE AGENDA ITEMS**

APR Funds

**PUBLIC PARTICIPATION II**

Motion by Councilman Bonker, Second by Councilwoman Franco to open to the public.

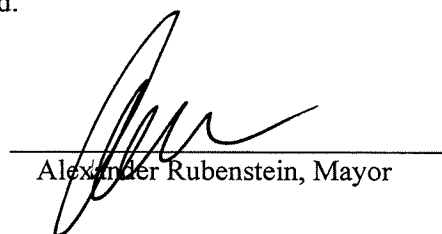
Luanne Byrne – feels that the road resurfacing has been very successful.

Motion by Councilman Bonker, Second by Councilwoman Franco to close to the public.

**ADJOURNMENT**

On the motion of Councilwoman Franco, second by Councilman Bonker, and with all members in favor, the meeting was adjourned at 8:35 p.m. All members were in favor. Motion carried.

  
Cynthia Church, RMC  
Township Clerk

  
Alexander Rubenstein, Mayor