

BYRAM TOWNSHIP SPECIAL COUNCIL MEETING - SEPTEMBER 15, 2020
EXECUTIVE SESSION – 6:30 P.M.
REGULAR SESSION – 7:30 P.M.

CALL MEETING TO ORDER

Mayor Rubenstein called the meeting to order at 6:32 p.m.

OPEN PUBLIC MEETING STATEMENT

This meeting is called pursuant to the provisions of the Open Public Meetings Law. This meeting has been electronically sent to the newspapers and uploaded to Byram’s website, not less than 48 hours in advance of the meeting. In addition, a copy of this notice is on file in the office of the Municipal Clerk.

ROLL CALL

Councilman Bonker, here; Councilwoman Franco, here; Councilman Gallagher, 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
 - Meeting Procedures
 - Property Maintenance - Block 220 Lot 25 & Block 336 Lot 23
 - Forest Lakes Drive – Potholes
- c. Contract Negotiations
 - Shared Services – Construction
 - Verizon Special Counsel

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 Bonker	Councilwoman Franco	Councilman Gallagher	Councilman Roseff	Mayor Rubenstein
Motion	x				
2 nd		x			
Y'es	x	x	x	x	x
No					
Abstain					
Absent					

Certification: I certify that the Byram Township Council adopted the above resolution on September 15, 2020.
Doris Flynn, Municipal Clerk

RETURN TO OPEN SESSION - The Mayor stated that the Council meeting was called to order at 6:30 p.m. at which time the Council went into executive session. The Mayor reopened the meeting at 7:32 pm.

FLAG SALUTE AND MOMENT OF SILENCE

PRESENTATION - B.A.R.K.S. – TNR - Dr. Karen Dashfield and Darlene O’Connell, president of BARKS. BARKS has been working with Byram Township for 40 years. They are a non-profit, no kill shelter. Feral and free roaming cats have always been an issue in Byram. TNR gives a humane option to cats instead of euthanasia. TNR increases public safety. Cats are captures, kittens are kept and put up for adoption and the adult cats are neutered and returned to the area where they were picked up, with exceptions. In 2020, they have taken in 20 cats and 7 stray dogs. Alex asked how BARKS is dealing with the situation now. Dr. Dashfield explained how the pound works. BARKS said the majority of the cats come and go within a month, unless they are feral or not friendly, they stay much longer. Ray Bonker has concerns about TNR and the liability to the Township if cats are released back to where the cat was living. If the cat that had been trapped, neutered, and released by the Township exhibits negative behavior and bites a human, he feels the Township could be liable. Several of the Council members had an issue with returning cats to the area in which they were found because neighbors may not want the cats there. Many times cats around someone’s home are reported as a nuisance. Cris asked how many kittens are presently at BARKS. Dr. Dashfield said there are 10 adult cats and 9 kittens. The 10 adult cats are not from Byram, as well as 4 kittens. Three dogs and 5 kittens are from Byram.

Alex opened to the public for comments on this matter.

- Anneliese, owner of the child day care center, stated that there were 11 cats trapped over time at her business. The smell that she endured from the cats/kittens was horrible. Anneliese summarized what has happen in her day care center over the years. She just spotted another cat in back of her building, and now she is afraid that there are more cats. Dr. Dashfield stated that unless the food source is stopped the cats will continue to be there. Employees at shop rite were found to be feeding the cats in prior years. Mt. Olive and Fredon Twp. have TNR programs for about 8 years. Joe suggested that he could contact the administrator to get input on the program.

BARKS is asking that we explore the option of a TNR program in the future. Joe stated that he wanted to clarify that the Township does not make a practice of euthanizing cats. The Township has worked with BARKS on any situation that has risen to avoid euthanasia.

Alex asked if the Council was interested in furthering the conversation on TNR. Harvey stated that he wanted to hear feedback from Mt. Olive. Jack and Cris would also like to get feedback. Ray will go along with the Council, but he personally doesn't think TNR works for Byram. Alex told Dr. Dashfield it was up to BARKS to bring them info about TNR.

APPROVAL OF AGENDA - Motion by Councilman Gallagher, second by Councilwoman Franco to approve the consent agenda with the removal of Resolution 157-2020 and 158-2020 to be voted on separately and also added a discussion item on opening of businesses. All members in favor. Motion carried.

MANAGER AND COUNCIL REPORTS

Manager's Report – On Tuesday September 9, 2020 there will be a special council meeting to discuss the 2021 goals and objectives at 7:00 pm. Joe forwarded the East Brookwood Alternative Alternate Emergency Access report. He will have the Township Engineer attend the October 6th meeting to review the report as a discussion item. He would also like to have a discussion on the 2021 streets and road projects.

Mayor Rubenstein - On 9/10/20 WaWa began their application at the planning board meeting. They will be back the end of October to continue testimony. Raimos is on the schedule for September 17th.

Councilman Bonker: Ray commented on the special meeting with

Ray feels we need to treat each sports team equitably. Ray thanked Jack Gallagher for advocating for the DPW building. September 11 was the 19th anniversary of 9 11. Ray talked about two of his colleagues that died in 9 11. We will never forget.

Councilwoman Franco - On September 9, Harvey and Cris met with Mike Orgera and Joe for a tour of the DPW building. Cris thanked Jack for bringing it to their attention.

Councilman Gallagher - Rec meeting September 21. Beginning of the month we lost a past fire Chief, Joe Pierson.

Councilman Roseff - Saturday Harvey attended a special meeting on Saturday at the Board of Elections to count 1600 ballots (approx.. 5% of the votes) which were misplaced, 2 months after the election. Vote counting is going to be started 10 days before election day. The envelopes can be postmarked up to 2 days after the election to be counted.

PUBLIC PARTICIPATION 1– The Mayor opened to open to the public. 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. The Mayor instructed the audience how they can participate and opened to the public.

- Carlos Luaces, stated that there was a trial today on Wayne Alvarez. The zoning officer stated to give testimony. The trial will continue next week. Carlos commented on the TRN program. He said that if we do this program, we should
- Kevin Prokup, 335 Amity Road, asked if there was going to be a discussion on the chicken ordinance. Alex informed him that the time to comment would be at the public hearing which is scheduled for October 6.

APPROVAL OF MINUTES

- Motion by Councilman Gallagher, second by Councilwoman Franco to approve the September 1, 2020 Regular & Closed Meeting Minutes and the September 8th Special Joint Meeting Minutes. Motion by Councilman Gallagher, second by Councilwoman Franco to approve the minutes.

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

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 Gallagher, second by Councilwoman Franco to approve the consent agenda. Harvey wanted to make sure there was the appropriate language for insurance in the shared service construction agreement. Article X does cover insurance.

- Resolution No. 148-2020 – Authorization to Purchase Software Upgrade for Fuel System for the Township of Byram Department of Public Works – Not to Exceed \$7,960.00
- Resolution No. 149-2020 – Resolution of Acceptance of a Donation from Alexander McVeigh, Boy Scout Troop 276 to the Township of Byram to Provide Informational Plaques along Mansfield Bike Trail
- Resolution No. 150-2020 – Resolution Authorizing Byram Township Fire Department to Conduct a Bucket Drop
- Resolution No. 151-2020 – Authorization to Purchase Snowplow Under the Sourcewell National Cooperative Purchasing System for Budget Year 2020 – Not to Exceed \$6,450.00
- Resolution No. 152-2020 – Refund County Tax Appeal for 2020 – Block 36 Lot 42 – 4 Waterloo Road
- Resolution No. 153-2020 – Refund County Tax Appeal for 2020 – Block 216 lot 2.01 – Rt. 206
- Resolution No. 154-2020 – Refund County Tax Appeal for 2020 – Block 255 Lot 216.02 – 235 Lake Drive
- Resolution No. 156-2020 – Resolution Authorizing the Amendment of Interlocal Agreement between Byram Township and Netcong Borough for Construction Department Services

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

RESOLUTIONS:

- Resolution No. 158-2020 – Resolution of the Governing Body of Byram Township Requesting Return to an “In-Person” Voting Process as No One Person Should Dictate a Voting Process - Alex suggested sending this resolution to the Board of Elections and Cris said send it to the Chamber of Commerce and it was agreed to add these to the resolution.

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

- Resolution No. 157-2020 – Resolution of the Mayor and Council to Authorize Repairs to the DPW Garage and Break Room no tot Exceed \$36,000 - Motion by Councilman Gallagher, second by Councilwoman Franco. Jack noted that at the September 1st meeting we reviewed a memo from the DPW superintendent with a cost of \$25,000. He asked what has changed. Joe stated that since that meeting, we received additional quotes. It could cost less than \$36,000. Right now, we don't have sufficient quotes to move forward. Ray asked if the mechanical equipment purchased could be reused if we rehabbed the entire building. Alex stated that the HVAC system may be able to repurposed, and there was discussion regarding the other repairs.

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

- Resolution No. 155-2020 – Refund for Overpayment Due to Reassessment – Block 237 Lot 519 – 8 Carpenter Road

Motion by Councilman Bonker, second by Councilman Gallagher.

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

APPROVAL OF SEPTEMBER 15, 2020 BILL LIST - Motion by Councilman Gallagher, second by Councilwoman Franco to approve the bill list.

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

ORDINANCE – 2nd Reading / Public Hearing

Ordinance No. 008-2020 - An Ordinance of The Township of Byram Granting Municipal Consent to Elizabethtown Gas Company to Construct, Maintain and Operate a Gas Line for the Distribution of Natural and Mixed Gas.

Motion by Councilman Roseff, second by Councilman Gallagher to adopt the ordinance.

Mark Kelly, Sales Manager for Elizabethtown Gas, and Attorney Rich Valente were on the call for any questions on the ordinance. Harvey Roseff said that he is very grateful that they are doing a small part of Byram. Harvey asked for a commitment to kick off a marketing study. Rich Valente said he spoke to Gary Marmo and if they received the names and addresses, they will conduct a survey this year. Joe stated that the names and address were sent several weeks ago. Joe stated that when the survey is ready to go out, they should notify the Township because we have the means to notify the public.

Open to the Public

- Amanda Beelitz, 167 Glenside Trail, stated that she is impacted by construction work being done by Elizabethtown gas. She hasn't had water since 10 a.m. She is in favor of natural gas coming into Byram but doesn't want this situation to keep happening. She stated that this has happened once before. Mark Kelly will look into and get back to Amanda.
- Carlos Luaces asked if Elizabethtown Gas will offer a grant program or rebate to the township as an incentive if they convert to gas. Mark Kelly said they do have programs.

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

Be It Resolved that Ordinance 008-2020 is passed on final reading and that a notice of final passage be published in the official designated newspaper according to the law.

ORDINANCE - Introduction / First Reading

- **An Ordinance Amending Chapter 87 Entitled “Animals” of the Township of Byram Code to Add a New Section 87.20 Entitled “Backyard Chickens”**
Purpose Statement: This ordinance amends Chapter 87 entitled “Animals” by adding Section 87.20 entitled “Backyard Chickens” to allow and regulate the keeping of up to four (4) female chickens on any residential lot subject to specific requirements in Byram Township.

Motion by Councilman Bonker, second by Councilwoman Gallagher to introduce the ordinance.

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

Ray stated that he felt this was the best ordinance that could pass. He stated the areas that he isn't in agreement with, but he can live with it. Harvey stated that he opposes this ordinance. We are in this position of opposition because it is a difficult nuisance to control. He does not feel the setbacks are large enough. Cris stated that this ordinance is a result of compromise. There are many people who have chickens in their backyard already. This ordinance gives the homeowner the ability to have chickens to produce eggs with restrictions. The permitting process will allow oversight. Alex agrees that this is a product of a lot of compromise, and he stated that he is in full support of the ordinance. Ray said this will be a 3-2 vote at the next meeting in favor of the ordinance.

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 the 6th day of October, 2020 at 7:30 p.m., on an audio conference call using Zoom at which time and place a public hearing will be held thereon and all persons and citizens interested shall have an opportunity to be heard.

- **An Ordinance to Amend Chapter 112-3 Fees, Construction Codes, Uniform and the Appendix A; Fee Schedule, to the Code of Byram Township**
Purpose Statement: The purpose of this Ordinance is to amend the Fee Schedule to update changes in § A287-6 Construction Department fees and in Chapter 112-3 Construction Codes, Uniform and A287-3 Animal Control Fees.

Motion by Councilwoman Franco, second by Councilman Gallagher to introduce the ordinance.

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

Harvey stated that he will be voting yes for this. He stated that we have had several conversations with the Council regarding our construction department. He wants the Council to look to shared services. This department over the past few years has changed its personnel several times. He would like to see cooperation with other towns to allow us to hire full timers so that employees can be retained. Ray is going to support this because of the research done by the Manager which showed that most of the surrounding towns were charging higher fees than Byram. Joe stated that the New Jersey Best Practices requires a municipality to review the construction fees to make sure the town is not collecting more revenue than what it cost to operate the department. In our case, we are not collecting enough revenue to cover the operation of the department.

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 the 6th day of October, 2020 at 7:30 p.m., on an audio conference call using Zoom at which time and place a public hearing will be held thereon and all persons and citizens interested shall have an opportunity to be heard.

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

- **Ordinance of the Township of Byram, County of Sussex, State of New Jersey to Establish a Government-Private Energy Aggregation Program in the Township of Byram in Order to Provide Electric Generation Service and Supply Service For Residential Customers Pursuant to the Government Energy Aggregation Act Of 2003 (P.L.2003, C.24, N.J.S.A. 48:3-92 Et Seq.)**

Motion by Councilman Gallagher, second by Councilman Bonker to introduce the ordinance.

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

Alex stated that this resolution doesn't authorize a contract. Ray stated that be passing this ordinance, they will be able to obtain the information from JCPL to do an analysis to find out if it would be a cost savings to the homeowners in Byram.

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 the 6th day of October, 2020 at 7:30 p.m., on an audio conference call using Zoom at which time and place a public hearing will be held thereon and all persons and citizens interested shall have an opportunity to be heard.

DISCUSSION ITEMS

-Future Council Meetings - September 29 and October 6 will be audio zoom. We will add future council meetings to the October 6th meeting. Cris asked if we can have a hybrid meeting. There was consensus for Alex and Joe to do research to see what the cost would be to hold a hybrid meeting.

-Verizon Fios - There are 2 hearings that are being held virtually - 9/29 and 10/1 at 5 p.m. The public can be heard by the BPU on the matter of Verizon renewing their 7-year franchise agreement. This is the way that Verizon is able to provide service throughout the State. There is also a period of time that we could submit written comments by October 15. We could consider a resolution at the next meeting to be forwarded to the BPU. Harvey said we should do a resolution on October 6. He also encouraged other council members and the public to comment. The Council was in favor of Harvey and Alex drafting a resolution.

- Open Space / Recreation Committee Projects Next Steps - There was a constructive discussion at the September 8th joint meeting. There was a lot of focus and agreement that CO Johnson is the central park of Byram and we should focus there. Many of the things that we want to do at that park are inter-related.

Ray Bonker said we repurpose the football field, add a gazebo, rehab the fieldhouse in some matter, add additional walking paths, which seniors can use and also helps with ADA compliance. Ray said this is a 10 year budget plan. He asked do we want to continue discussion with the committees or engage some professional assistance to act on the recommendations that came out of the September 8th meeting. We could get some high level options from our professionals. Harvey thought the meeting was very good. He would like to see us engage more with neighboring towns to address recreation needs and possibly get fees. Harvey suggested moving the football field to Tamarack Park which would open up COJ. He would like to see a pavilion and possibly a stage. Harvey would like to see the funding only come out of the open space funds, utilizing the fund balance and the cash flow.

Ray said that moving football to Tamarack would be a problem because of Highlands and environmental issues. Alex would like to see some rough sketches and some rough costs. Harvey would like to see us use a landscape architect. Alex said maybe we do want to interview some people who are specialists in park design.

Cris thought it was a great discussion and she learned a lot. She is looking forward to starting this process and is in favor of involving professionals.

Next step is to identify a firm who specializes in a park plan. Joe suggested doing research if any town has used a specialized firm in this way. Joe will reach out to Greener by Design to see if they have any recommendations. Jack suggested finding out who designed Turkey Brook Park.

PUBLIC PARTICIPATION II - The Mayor opened up to open to the public.

The Mayor closed to public.

A RESOLUTION URGING GOVERNOR MURPHY TO REOPEN BUSINESSES IN BYRAM TOWNSHIP AND SUSSEX COUNTY, NEW JERSEY IN THE IMMEDIATE FUTURE

Alex did not particularly like the resolutions that came from the County and the Chamber of Commerce. Alex read his draft resolution.

Ray Bonker liked the resolution and would be ready to vote on this. There was discussion among the members, and several recommendations were made. Tom Collins said to refer to the County Division of Health and not Board of Health. Cris suggested that we should congratulate the State of New Jersey and not just Governor Murphy. Jack and Harvey were in favor of the resolution as discussed. Alex said he will work with Cris on adding the minor changes discussed this evening to Resolution 159-2020.

Motion by Councilman Bonker, second by Councilwoman Franco to approve this resolution, numbering it Resolution 159-2020, with minor revisions discussed tonight.

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

Open to the Public:

Jeanne Moran, 7 E. Waterloo Road, asked if the Council is going to include East or West Brookwood Park for improvements. Alex said that the Riverside Park does need attention. She said there wasn't discussion on September 8 about Riverside Park. Alex said the Council will consider it.

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:

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.

- a. Attorney Client Privilege Communication
 - General
- b. Contract Negotiations
 - Shared Services – Construction
 - Verizon Special Counsel

BYRAM TOWNSHIP COUNCIL


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

Certification: I certify that the Byram Township Council adopted the above resolution on September 15, 2020.
Doris Flynn, Municipal Clerk

RETURN TO OPEN SESSION

ADJOURNMENT – Motion by Councilman Bonker, second by Councilwoman Franco to adjourn the Council meeting at 11:53 pm. All members in favor. Motion carried.


Doris Flynn, Municipal Clerk


Alexander Rubenstein, Mayor