

TOWNSHIP OF BYRAM
COUNCIL AGENDA, TUESDAY, AUGUST 1, 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
- b. Anticipated Litigation – Update on Mid-American Salt
- c. Contract Negotiations – Labor Unions
 - Dispatch Agreement
 - VComm Agreement

5. RETURN TO OPEN SESSION

6. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENT REFLECTION

7. APPROVAL OF AGENDA

8. PRESENTATION OF THE 2016 AUDIT

- Resolution No. 120-2017 – Governing Body Certification of the Annual Audit
- Resolution No. 121-2017 – Corrective Action Plan for 2016 Audit

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

- July 11, 2017 Regular Meeting Minutes
- July 11, 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. 118-2017- Resolution of the Governing Body of the Township of Byram for Deer Hunting on Municipally-Owned Property for the 2017-2018 Hunting Season
- B. Resolution No. 119-2017 – Award of Bid to Tilcon under the Morris County Cooperative Pricing Council for the Proposed Resurfacing of Brookwood Road & Debbie Drive Not to Exceed \$134,323.25
- C. Resolution No. 122-2017 - Authorization to Purchase Firefighter Protective Clothing and Equipment under the State of New Jersey Cooperative Purchasing Program for Budget Year 2017
- D. Resolution No. 123-2017 – Chapter 159
- E. Resolution No. 124 – 2017 – Resolution of Acceptance of a Donation to Paint the Exterior of the Pound

13. APPROVAL OF AUGUST 1, 2017 BILL LIST

14. ORDINANCE – 1st Reading/Introduction

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. PUBLIC PARTICIPATION II

16. EXECUTIVE SESSION – Session II (if necessary)

17. ANY OTHER BUSINESS THE COUNCIL DEEMS NECESSARY

18. ADJOURNMENT

TOWNSHIP OF BYRAM
GOVERNING BODY CERTIFICATION OF THE ANNUAL AUDIT
RESOLUTION NO. 120 - 2017

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

WHEREAS, the Annual Report of Audit for the year 2016 has been filed by a Registered Municipal Accountant with the "*Municipal Clerk*" pursuant to N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body; and,

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and,

WHEREAS, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled "Comments and Recommendations"; and,

WHEREAS, the members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled "Comments and Recommendations", as evidenced by the group affidavit form of the governing body attached hereto; and,

WHEREAS, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and,

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52, to wit:

R.S. 52:27BB-52: A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

NOW, THEREFORE BE IT RESOLVED, that the Mayor and Council of the Township of Byram, hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF THE RESOLUTION PASSED AT THE MEETING HELD ON AUGUST 1, 2017.

Doris J. Flynn, Township Clerk

**TOWNSHIP OF BYRAM
SUSSEX COUNTY, NEW JERSEY
RESOLUTION NO. 121 – 2017**

Corrective Action Plan for the 2016 Audit

WHEREAS, Local Finance Notice 97-16 requires the Chief Financial Officer, with assistance from other officials affected by the audit recommendations, to prepare and submit a Corrective Action Plan for approval by the governing body within sixty (60) days from the date the audit is received by the governing body; and

WHEREAS, the 2016 Audit was received on June 19, 2017;

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Byram, County of Sussex and State of New Jersey, that the attached Corrective Action Plan be approved, placed on file in the Clerk's Office, and submitted by the Clerk to the Division of Local Government Services. Copies of this Resolution will be forwarded to the Township Auditor.

BYRAM TOWNSHIP COUNCIL					
COUNCIL MEMBER	<i>Councilman Gray</i>	<i>Councilwoman Raffay</i>	<i>Councilman Olson</i>	<i>Councilwoman Kash</i>	<i>Mayor Oscovitch</i>
Motion					
2nd					
Yes					
No					
Abstain					
Absent					

CERTIFICATION

I, Doris Flynn, Clerk of the Township of Byram, in the County of Sussex in the State of New Jersey, do hereby certify that the foregoing Resolution is a true copy of the Original Resolution duly passed and adopted by a majority of the full membership of the Byram Township Council at its meeting on August 1, 2017.

Doris Flynn, RMC
Township Clerk

**TOWNSHIP OF BYRAM
RESOLUTION NO. 118 - 2017**

**RESOLUTION OF THE GOVERNING BODY
OF THE TOWNSHIP OF BYRAM FOR
DEER HUNTING ON MUNICIPALLY-OWNED
PROPERTY FOR THE 2017-18 HUNTING SEASON**

WHEREAS, the Township of Byram established a Deer Management Program by Ordinance 2-2013 on municipally-owned property, and;

WHEREAS, the Open Space Committee is to recommend municipally-owned property that is appropriate for deer hunting; and

WHEREAS, the Open Space Committee has made its recommendations for the 2017-2018 hunting season;

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Byram that Arnell (Briar Ridge), Owners Maintenance (Briar Ridge), Beckman-Kostrey (Cranberry Overlook), One Main Street (Glenside Woods) and Tamarack Park, Blk. 360, Lot 42.05 (49.09 acres adjacent to Roseville Road) are permitted to be hunted on for the 2016-17 hunting season provided that the hunter has received a permit from the Township of Byram and the hunter follows all applicable state regulations.

NOW THEREFORE IT BE FURTHER RESOLVED that Arnell (Briar Ridge), Owners Maintenance (Briar Ridge), Beckman-Kostrey (Cranberry Overlook), One Main Street (Glenside Woods) and Tamarack Park, Blk. 360, Lot 42.05 (49.09 acres adjacent to Roseville Road) shall be available for hunting by a maximum of 100 permit holders, every day, including Saturdays and Sundays.

BYRAM TOWNSHIP COUNCIL

Certification

I, **DORIS FLYNN**, Township Clerk of the Township of Byram, County of Sussex, and State of New Jersey, do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Township Council of the Township of Byram, County of Sussex, State of New Jersey, at a regular meeting of said Council held on August 1, 2017.

Doris Flynn, Clerk

**TOWNSHIP OF BYRAM
SUSSEX COUNTY, NEW JERSEY
RESOLUTION NO. 119-2017**

Award of Bid to Contractor under the Morris County Cooperative Pricing Council For Proposed Resurfacing of Brookwood Road & Debbie Drive

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

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.) Roadway Milling & Paving: Tilcon, New York, Inc. (Contract #6) in an amount not exceed \$134,323.25

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 Capital Ordinance #16-2017 - Various Street Improvements, 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

COUNCIL MEMBER	<i>Councilman Luaces</i>	<i>Councilwoman Raffan</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 1, 2017.

Doris Flynn, Township Clerk

**TOWNSHIP OF BYRAM
SUSSEX COUNTY, NEW JERSEY
RESOLUTION NO. 122 – 2017**

Authorization to Purchase Firefighter Protective Clothing and Equipment under the State of New Jersey Cooperative Purchasing Program for Budget Year 2017

WHEREAS, the Township of Byram pursuant to N.J.S.A. 40A:11-12 and N.J.A.C. 5:34-7-29, may without advertising for bids, purchase any goods or services under the State of New Jersey Cooperative Purchasing Program for any State contracts entered into on behalf of the State by the Division of Purchase and Property in the Department of Treasury; and

WHEREAS, the Township of Byram is in need of and desires to purchase Firefighter Protective Clothing and Equipment; and

WHEREAS, participation in the State Cooperative Pricing Program does not require a formal agreement with the Division of Purchase and Property, or its approval of the Director required; and

WHEREAS, contracts awarded under a State Cooperative Purchasing Contract, in excess of the Township's bid threshold may be made by resolution of the Governing Body; and

WHEREAS, the New Jersey Cooperative Purchasing Program awarded a contract to Fire Dex, LLC under Contract #T-0790, #A80946 for Firefighter Protective Clothing and Equipment for the period April 1, 2016 – July 30, 2017, thereby affording the Township of Byram the opportunity of direct purchase, without competitive bidding from authorized dealer:

Nat Alexander Co., Inc.
121 White Horse Pike
Laurel Springs, NJ 08021

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Byram does hereby authorize the Purchasing Agent (or designee) to purchase Firefighter Protective Clothing and Equipment from the above reference approved New Jersey State Contract Vendor, pursuant to all conditions of the contract listed herein; and

BE IT FURTHER RESOLVED, that upon receipt, inspection and approval of vouchers therefore by the Township of Byram, payment, pursuant to said purchase orders, are hereby authorized with the same to be charged against funds established in the appropriate accounts for said purpose; and

BE IT FURTHER RESOLVED, that the duration of the contract between the Township of Byram and the referenced State Contract Vendor shall be for budget year 2017.

BYRAM TOWNSHIP COUNCIL

COUNCIL MEMBER	Councilman Gray	Councilwoman Raffay	Councilman Olson	Councilwoman Kash	Mayor Osoovitch
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 1, 2017.

Doris Flynn, Township Clerk

TOWNSHIP OF BYRAM
RESOLUTION NO. 123 - 2017
CHAPTER 159

WHEREAS, N.J.S. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount, and

NOW, THEREFORE BE IT RESOLVED, that the Mayor and Council of the Township of Byram, County of Sussex, State of New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2017 in the sum of \$11,420.00 which is now available as a revenue from:

Miscellaneous Revenues – Section F
 Special Items of General Revenue Anticipated with Prior Written Consent of the Director of Local Government Services:
 Public and Private Revenues Offset with Appropriations:
 Municipal Alliance Program

BE IT FURTHER RESOLVED, that the like sum of \$11,420.00 be and the same is hereby appropriated under the caption of:
 General Appropriations:

(a) Operations Excluded from CAPS
 Public and Private Programs Offset by Revenues:
 Municipal Alliance Program

BE IT FURTHER RESOLVED, that the Township forward one copy of this resolution to the Director of the Division of Local Government Services.

BYRAM TOWNSHIP COUNCIL

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

ATTEST:

I certify that the foregoing resolution was adopted by the Byram Township Council at a meeting held on August 1, 2017.

 Doris Flynn, Township Clerk

**TOWNSHIP OF BYRAM
RESOLUTION NO. 124 – 2017**

**RESOLUTION OF ACCEPTANCE OF A DONATION TO PAINT THE
EXTERIOR OF THE POUND**

WHEREAS, the Township of Byram has recently received a request from B.A.R.K.S. to donate the services of Kim Parrish to paint the exterior walls of the pound; and

WHEREAS, the Township supports this donation and has received a hold harmless release from Kim Parrish; and

WHEREAS, this donation and its acceptance are authorized pursuant to N.J.S.A. 40:12-29.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Township of Byram, County of Sussex and the State of New Jersey does hereby accept the donation of services from Kim Parrish to paint the exterior walls of the pound; and

BE IT FURTHER RESOLVED that a copy of this resolution be sent to B.A.R.K.S. with the expressed appreciation of the Governing Body.

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 1, 2017.

Doris Flynn, Township Clerk

TOWNSHIP OF BYRAM

ORDINANCE # -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.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Council of the Township of Byram held on August 1, 2017, at 7:30 p.m. and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Council to be held on August 15, at 7:30 p.m., at the Municipal Building, 10 Mansfield Drive, Byram, New Jersey 07874, at which time all persons interested will be given the opportunity to be heard regarding said Ordinance. A copy of the ordinance is available at the Clerk's office, Monday through Friday, 8:30 a.m. – 4:30 p.m.

Doris Flynn, RMC

Introduced: 8-1-2017
Adopted: