



Mayor & Council of Berlin

10 William Street, Berlin, Maryland 21811

Phone 410-641-2770 Fax 410-641-2316

www.berlinmd.gov



Mayor

Wm. Gee Williams, III

Vice President

Elroy Brittingham, Sr.

Council Members

Dean Burrell, Sr.

Lisa Hall

Paula Lynch

Troy Purnell

BERLIN, MARYLAND

MAYOR AND COUNCIL MEETING

Town Attorney

David Gaskill

MONDAY, JANUARY 28, 2013

Town Administrator

Anthony J. Carson, Jr.

COUNCIL CHAMBERS – BERLIN TOWN HALL

10 WILLIAM STREET

BERLIN, MD 21811

EXECUTIVE SESSION.....NO EXECUTIVE SESSION

REGULAR SESSION7:00 PM

Anyone having questions about the meetings mentioned above or needing special accommodations should contact Tony Carson, Town Administrator at (410) 641-4144. Written materials in alternate formats for persons with disabilities are made available upon request.

TTY users dial 7-1-1 in the State of Maryland.
TTY users outside Maryland dial 1-800-735-2258

**BERLIN MAYOR AND COUNCIL
COUNCIL MEETING
AGENDA
Monday, January 28, 2013**

NO EXECUTIVE SESSION

7:00 PM REGULAR SESSION – Berlin Town Hall Council Chambers

1. Approval of the Minutes for:
 Regular Session of the Mayor and Council on January 14, 2013
 Executive Session of the Mayor and Council on January 14, 2013
 Statement of Closure for Mayor and Council on January 14, 2013
2. Presentation – Eagle Scout Peter Marx
 Installation of bat boxes in Stephen Decatur Park
3. Request for Special Event – Women Supporting Women
 High Heel Race – June 14, 2013; 7:00 p.m.
4. Public Hearing – Ordinance 2013-01
 An ordinance amending Chapter 26 of the Town code by adding Article V thereto for
 the purpose of establishing a stormwater utility department under the direction and
 supervision of the Water Resources department and further establishing a
 stormwater management utility fee system.
5. Motion to Approve - Resolution 2013 -01
 A resolution establishing, pursuant to Chapter 26, article V of the Town Code, the
 square footage of an equivalent residential unit (ERU) and amount of the equivalent
 residential unit rate (ERU Rate).
6. Powerpoint Presentation & Video - 2013 Event Schedule – Michael Day
 - A. Motion to Approve – Special exemption for the consumption of alcohol in
 non-glass containers within specified areas.
 - B. Motion to Approve – permission for Berlin Chamber of Commerce to sell
 beer and wine pending approval of permit by Worcester County Board of
 License Commissioners.
7. Departmental Reports
 - a. Finance – Lynn Musgrave
 - b. Deputy Town Administrator – Mary Bohlen
 - c. Public Works – Mike Gibbons
 - d. Water Resources – Jane Kreiter
 - e. Electric – Tim Lawrence
 - f. Police – Arnold Downing
 - g. Planning and Zoning - Chuck Ward
 - h. Human Resources – Jeff Fleetwood
 - i. Economic and Community Development – Michael Day

8. Town Administrator's Report
9. Comments from the Mayor
10. Comments from the Council
11. Comments from the Public
12. Comments from the Press
13. Adjournment

MAYOR AND COUNCIL OF BERLIN, MARYLAND
Regular Session Council Minutes
Monday, January 14, 2012

The meeting of the Mayor and Council for Monday, January 14, 2012 was called to order by Mayor Williams at approximately 7:05 p.m. Councilmembers Hall, Burrell, Brittingham and Lynch were present, as well as Town Administrator Tony Carson, Human Resources Director Jeff Fleetwood, Deputy Town Administrator Mary Bohlen, Town Attorney David Gaskill, Finance Director Lynn Musgrave, Public Works Director Mike Gibbons, Electric Utility Director Tim Lawrence, Water Resources Director Jane Kreiter, Planning and Zoning Director Chuck Ward, Economic and Community Development Director Michael Day and Administrative Assistant Sharon Timmons. Councilmember Troy Purnell and Police Chief Arnold Downing were absent.

Following the recitation of the Lord's Prayer and the Pledge of Allegiance, Mayor Williams asked for a motion for approval of the Regular minutes of December 10, 2012. Councilmember Lynch noted that the number "\$3,000.000" should be changed to \$3,000.00 on pages 3 & 4 and that the word "memorized" should be changed to "memorialized". Councilmember Lynch made a motion to approve the minutes as corrected and council voted to approve 4-0 with Councilmember Purnell absent. Mayor Williams then asked for approval of the Executive Session minutes of December 10, 2012. Councilmember Lynch made a motion to approve the minutes and council voted to approve 4-0 with Councilmember Purnell absent. Mayor Williams stated that the Executive Session was closed to consider the acquisition of real property for a public purpose. Mayor Williams asked for a motion to approve the Worksession Minutes of January 7, 2013. Councilmember Brittingham made a motion to approve the minutes and council voted to approve 4-0 with Councilmember Purnell absent. Mayor Williams asked for a motion to approve the Executive Session minutes of January 7, 2013. Councilmember Lynch made a motion to approve the minutes and council voted to approve 4-0 with Councilmember Purnell absent. Mayor Williams stated that the Executive Session was closed to discuss a matter of public security and to conduct or discuss investigative proceedings on actual or possible criminal conduct.

Mayor Williams announced the motion to approve the authorization for Mayor Williams to sign the agreement with DDU Magnetics Inc. for the installation of a wind turbine at the substation located on Schoolfield Street. Town Attorney David Gaskill read the motion. Mayor Williams asked Mr. Doug Richards, electrical engineer with DDU to give a general overview regarding the financial obligations from the town. Mr. Richards stated that DDU Magnetics would be responsible for the building, maintenance and use of the wind turbine as a demo project and that the Town would be responsible for the running of the line from the turbine to the substation which would cost around \$4,000. The projected life span of the turbine was 10-15 years and any maintenance issues or replacement of parts would be shouldered by DDU. Schoolfield Street resident Linda Bowen stated that she had spoken with many of the people in the neighborhood and they were concerned that they had not been contacted earlier. Councilmember Brittingham stated that he and Electric Utility Director Tim Lawrence had made an effort to speak with all of the residents and had placed notices on their doors regarding this evening's meeting. Various concerns voiced from the residents were noise and health issues, increased traffic and the impact on the neighborhood and property values. Discussion continued. Councilmember Burrell asked the residents if they would like to have the turbine and many of them responded no.

Councilmember Brittingham made a motion to table the issue until a meeting could be held with the residents of Schoolfield and Elizabeth Streets to allow them to receive more information and ask questions. Mr. Carson handed out his business card and asked residents to contact him with any concerns. Mayor Williams asked Mr. Richards to put together a packet with his background information, names of those principals financing the project, information on the project details and answers to the questions or concerns from the residents. Mr. Carson stated that the contract was an open-ended contract allowing either party to end the contract at any time if either party was not happy. Mr. Carson then asked Mr. Lawrence and Mr. Richards to meet with the residents in the conference room to attempt to answer their questions. Mr. Lawrence and Mr. Richards left to speak with the residents. Mayor Williams stated that a formal motion had been made by Councilmember Brittingham to table the issue until a later date after the residents had been fully informed. Council agreed to table the motion 4-0 with Councilmember Purnell absent.

Planning and Zoning Director Chuck Ward explained Resolution 2012-08, which would establish a septic tier map pursuant to the requirements established in the Sustainable Growth and Agricultural Preservation Act. The septic tier map would identify areas for growth and land use and their intent. Mr. Ward stated that he would have the map placed on the Town's website. Councilmember Burrell made a motion to approve Resolution 2012-08 and council voted to approve 4-0 with Councilmember Purnell absent.

Town Administrator Tony Carson explained the motion to approve the purchase of 1 additional EDU for the property located at 10019 Old Ocean Boulevard and approve a 5 year payment plan for the balance of the cost of the EDU. The property owner had paid the required 10% deposit. This request was being made in order to expand the existing daycare to provide for more children. Water Resources Director Jane Kreiter stated that she would re-evaluate the water usage in 2 years. Councilmember Brittingham made a motion to approve the purchase of 1 additional EDU for the property located at 10019 Old Ocean City Boulevard and to allow the 5 year payment plan for the balance of the cost of the EDU and council voted to approve 4-0 with Councilmember Purnell absent.

Mayor Williams announced the motion to approve the contract with the low bidder, Joshi Construction, for the renovation of the public restrooms in an amount not to exceed \$104,528.00. Deputy Town Administrator Mary Bohlen explained that the Town had received Block Grant funding in the amount of \$65,500. Costs for engineering left a balance for construction of \$57,629.43. Ms. Bohlen proposed that the grant fund balance of \$57,629.43 be utilized and that \$46,898.57 be taken from the General Fund contingency. Public Works Director Mike Gibbons explained the reasoning for the increased bid costs. Water Resources Jane Kreiter explained the current sewer blockage problem affiliated with the restrooms, but stated that her department would be running a new sewer lateral from the road to hopefully eliminate the problem. Finance Director Lynn Musgrave told council that the Town was well funded in the contingency fund and there was plenty of money to cover the costs and still have \$650,000 left in the fund. Economic and Community Development Director Michael Day stated that the condition of the bathrooms was one of the top two complaints from visitors to the town. Mayor Williams expressed his embarrassment at their condition. Councilmember Burrell made a motion to approve the contract with Joshi Construction for the renovation of the public restrooms in the amount of \$104,528.00 and council voted to approve 4-0 with Councilmember Purnell absent.

Mayor Williams introduced Ordinance 2013-01, an ordinance establishing the Stormwater Utility department and explained the steps taken to get to this point. Town Attorney David Gaskill summarized the ordinance. A public hearing will be held on January 28, 2013.

Town Attorney David Gaskill explained Resolution 2013-01, establishing the fees and definitions associated with residential and non-residential properties under the Stormwater Management Utility. Mayor Williams explained that the non-residential rate could be reduced from \$45 to \$25 per ERU by the Town contributing \$300,000 to the Stormwater Utility for the next 10 years. Mayor Williams also added that the greatest areas of need concerning flooding would be addressed in the first year with projects in subsequent years based on the engineer's evaluation. The first year projects are Nelson, Franklin and William Streets; Flower and Showell Streets and West Street and Abbey Lane.

Mr. Jay Bergey expressed his dissatisfaction with the report from the University of Maryland EFC. Mr. Jim Hoppa stated that the Town needed to move forward and work together as a community. Mayor Williams stated that the State had mandated that each municipality must meet all new regulations regarding stormwater and that the Town was attempting to be as fair and equitable as possible on spreading the associated costs around. Discussion continued.

Department Head reports began with Public Works Director Mike Gibbons reporting that the paving on Germantown Road had been completed last Friday and the grading and seeding on the shoulder of the road had been completed today. He also reported that the nets had been installed on the basketball standards, but the painting of the basketball courts would not be completed until mid-March due to the weather. Mr. Gibbons recommended that the extension of the Flower Street sidewalk project begin in mid-March and stated that the contractor had agreed to honor his price.

Electric Utility Director Tim Lawrence reported that the Electric department had completed their portion of the Flower Street pole relocation. He stated that another pole had been relocated on Broad and Washington Streets for the State Highway ADA project. He then reported that the oxidation catalyst project for the Power Plant would begin the first week of February.

Economic and Community Development Director Michael Day reported that he would be meeting with Castaway's Campground regarding their marketing plan in cooperation with the Chamber of Commerce.

Town Administrator Tony Carson requested approval of 11 purchase orders (201301653, 201301695, 201301745, 201301783, 201301375, 201301891, 201301940, 201301668, 201301933, 201301887 and 201301967). Discussion continued on several purchase orders. Councilmember Brittingham made a motion to approve all 11 purchase orders and council voted to approve 4-0 with Councilmember Purnell absent.

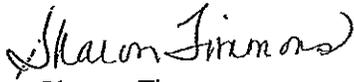
Mayor Williams reported on the new proposed boarding stops for the Shore Transit bus. A sheltered stop is proposed at the end of the Town Hall parking lot on Pitts Street with a second stop on Franklin Avenue as soon as Shore Transit has their software in place.

Mayor Williams asked for comments from the council. Councilmember Hall commented on how the Town had worked in the past and was currently working to put a plan together on the Stormwater to enable the Town to be in the position to receive grant monies. She also commented that we need to make sure to hold developers accountable in the future. Councilmember Burrell asked Mr. Gibbons to contact Worcester County regarding the repair of a large hole in the road towards the end of Flower Street Extended.

Mayor Williams asked for comments from the public or the press.

There being no further comments or questions, Councilmember Burrell made a motion to adjourn the meeting and the meeting ended at 9:53 pm.

Respectfully submitted

A handwritten signature in cursive script that reads "Sharon Timmons".

Sharon Timmons
Administrative Assistant

ORDINANCE 2013-01

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, MARYLAND, A MARYLAND MUNICIPAL CORPORATION, AMENDING CHAPTER 26 OF THE TOWN CODE BY ADDING ARTICLE V THERETO FOR THE PURPOSE OF ESTABLISHING A STORMWATER UTILITY DEPARTMENT UNDER THE DIRECTION AND SUPERVISION OF THE WATER RESOURCES DEPARTMENT AND FURTHER ESTABLISHING A STORMWATER MANAGEMENT UTILITY FEE SYSTEM

NOW THEREFORE, BE IT ENACTED BY THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, MARYLAND AS FOLLOWS:

STORMWATER
CHAPTER 26

ARTICLE V. ESTABLISHMENT OF STORMWATER UTILITY
DEPARTMENT AND A STORMWATER MANAGEMENT UTILITY FEE
SYSTEM

§ 26-260 FINDINGS.

- (A) THE TOWN MAINTAINS A SYSTEM OF STORM AND SURFACE WATER MANAGEMENT FACILITIES INCLUDING, BUT NOT LIMITED TO, INLETS, CONDUITS, MANHOLES, CHANNELS, DITCHES, DRAINAGE EASEMENTS, RETENTION AND DETENTION BASINS, INFILTRATION FACILITIES, AND OTHER COMPONENTS AS WELL AS NATURAL WATERWAYS.
- (B) THE STORMWATER SYSTEM IN THE TOWN NEEDS TO BE UPGRADED, IMPROVED AND REGULARLY MAINTAINED.
- (C) WATER QUALITY IS DEGRADING DUE TO EROSION AND THE DISCHARGE OF NUTRIENTS, METALS, OIL, GREASE, TOXIC MATERIALS AND OTHER SUBSTANCES INTO AND THROUGH THE STORMWATER SYSTEM.
- (D) THE PUBLIC HEALTH SAFETY AND WELFARE IS ADVERSELY AFFECTED BY POOR AMBIENT WATER QUALITY AND EXTREME FLOODING THAT RESULTS FROM INADEQUATE MANAGEMENT OF BOTH THE QUALITY AND QUANTITY OF STORMWATER.
- (E) ALL REAL PROPERTY IN THE TOWN USES AND BENEFITS FROM THE MAINTENANCE OF THE STORMWATER SYSTEM.
- (F) THE EXTENT OF THE USE OF THE STORMWATER SYSTEM BY EACH PROPERTY IS DEPENDENT ON FACTORS THAT INFLUENCE RUNOFF, INCLUDING LAND USE AND THE AMOUNT OF IMPERVIOUS SURFACE ON THE PROPERTY.
- (G) THE COSTS OF IMPROVING, MAINTAINING, OPERATING AND MONITORING THE STORMWATER SYSTEM SHOULD BE ALLOCATED, TO THE EXTENT PRACTICABLE, TO ALL PROPERTY OWNERS BASED ON THE IMPACT OF RUNOFF FROM THE IMPERVIOUS AREAS OF THEIR PROPERTY ON THE STORMWATER MANAGEMENT SYSTEM.

(H) MANAGEMENT OF THE STORMWATER SYSTEM TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE REQUIRES THE CREATION OF A STORMWATER UTILITY DEPARTMENT TO MONITOR, MAINTAIN, IMPROVE AND OVERSEE THE OPERATION OF THE STORMWATER UTILITY SYSTEM AND FURTHER REQUIRES THAT ADEQUATE REVENUES BE GENERATED TO PROVIDE FUNDING FOR THE OPERATION, IMPROVEMENT, MAINTENANCE AND MONITORING OF THE STORMWATER UTILITY SYSTEM. THEREFORE IT IS IN THE INTEREST OF THE PUBLIC TO FINANCE STORMWATER MANAGEMENT ADEQUATELY WITH A USER CHARGE SYSTEM THAT IS REASONABLE AND EQUITABLE SO THAT EACH USER OF THE SYSTEM PAYS TO THE EXTENT TO WHICH EACH USER CONTRIBUTES TO THE NEED FOR IT.

§ 26-261. AUTHORITY.

(A) AUTHORITY FOR THE CREATION OF A STORMWATER UTILITY DEPARTMENT IS CONFERRED ON THE MAYOR AND COUNCIL BY THE TOWN CHARTER SECTION C5-1(16).

(B) AUTHORITY FOR THE ADOPTION OF A SYSTEM OF CHARGES AND FEES TO FUND THE IMPLEMENTATION OF STORMWATER MANAGEMENT PROGRAMS IS CONFERRED ON THE MAYOR AND COUNCIL BY SECTION 4-204(D), ENVIRONMENTAL ARTICLE, ANNOTATED CODE OF MARYLAND, AS AMENDED.

§ 26-262. CREATION OF STORMWATER UTILITY DEPARTMENT.

A STORMWATER UTILITY DEPARTMENT IS HEREBY ESTABLISHED FOR THE PURPOSE OF MONITORING, MAINTAINING, IMPROVING AND OVERSEEING THE OPERATION OF THE STORMWATER UTILITY SYSTEM IN THE TOWN OF BERLIN. THE STORMWATER UTILITY DEPARTMENT SHALL PERFORM ITS FUNCTIONS UNDER THE DIRECTION AND SUPERVISION OF THE WATER RESOURCES DEPARTMENT AND THE TOWN ADMINISTRATOR.

§ 26-263. DEFINITIONS.

FOR PURPOSES OF THIS CHAPTER, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS INDICATED:

(A) EQUIVALENT RESIDENTIAL UNIT (ERU) RATE MEANS THE STORMWATER MANAGEMENT FEE CHARGED ON AN EQUIVALENT RESIDENTIAL UNIT (ERU). THE ANNUAL (FIXED YEAR) STORMWATER MANAGEMENT FEE FOR SINGLE FAMILY RESIDENTIAL PROPERTY IN THE TOWN EQUALS THE ERU RATE.

(B) EQUIVALENT RESIDENTIAL UNIT (ERU) MEANS THE MEDIAN IMPERVIOUS SURFACE AREA ASSOCIATED WITH A SINGLE FAMILY RESIDENTIAL PROPERTY IN THE TOWN.

(C) TOWN ADMINISTRATOR MEANS THE TOWN ADMINISTRATOR FOR THE TOWN OF BERLIN, MARYLAND OR HIS OR HER DESIGNEE.

(D) FEE OR STORMWATER MANAGEMENT FEE MEANS THE CHARGE ESTABLISHED UNDER THIS CHAPTER AND LEVIED ON OWNERS OF PARCELS OR PIECES OF REAL PROPERTY TO FUND THE COSTS OF STORMWATER MANAGEMENT AND OF OPERATING, MAINTAINING AND IMPROVING THE STORMWATER SYSTEM IN THE TOWN.

(E) FISCAL YEAR MEANS JULY 1 OF A CALENDAR YEAR TO JUNE 30 OF THE NEXT CALENDAR YEAR, BOTH INCLUSIVE.

(F) IMPERVIOUS SURFACE AREA MEANS THE NUMBER OF SQUARE FEET OF HORIZONTAL SURFACE COVERED BY BUILDINGS AND OTHER IMPERVIOUS SURFACES. ALL BUILDING MEASUREMENTS SHALL BE MADE BETWEEN EXTERIOR FACES OF WALLS, FOUNDATIONS, COLUMNS OR OTHER MEANS OF SUPPORT OR ENCLOSURE.

(G) IMPERVIOUS SURFACE MEANS A SURFACE AREA WHICH IS COMPACTED OR COVERED WITH MATERIAL THAT IS RESISTANT TO INFILTRATION BY WATER, INCLUDING, BUT NOT LIMITED TO, MOST CONVENTIONALLY SURFACED STREETS, ROOFS, SIDEWALKS, PATIOS, DRIVEWAYS, PARKING LOTS, SWIMMING POOLS AND ANY OTHER OILED, GRAVELED, GRADED, COMPACTED, OR OTHER SURFACE WHICH IMPEDES THE NATURAL INFILTRATION OF SURFACE WATER.

(H) NON-RESIDENTIAL PROPERTY MEANS PROPERTY OTHER THAN SINGLE-FAMILY RESIDENTIAL PROPERTY. SUCH PROPERTY SHALL INCLUDE, BUT NOT BE LIMITED TO, MULTI-FAMILY DWELLINGS, COMMERCIAL PROPERTY, INDUSTRIAL PROPERTY, PARKING LOTS, HOSPITALS, SCHOOLS, RECREATIONAL AND CULTURAL FACILITIES, HOTELS, OFFICES AND CHURCHES.

(I) PROPERTY OWNER MEANS THE PROPERTY OWNER OF RECORD AS LISTED IN THE STATE ASSESSMENT ROLL. A PROPERTY OWNER INCLUDES ANY INDIVIDUAL, CORPORATION, FIRM, PARTNERSHIP, OR GROUPS OF INDIVIDUALS ACTING AS A UNIT, AND ANY TRUSTEE, RECEIVER OR PERSONAL REPRESENTATIVE.

(J) SINGLE FAMILY RESIDENTIAL PROPERTY MEANS A PROPERTY WHICH SERVES THE PRIMARY PURPOSE, OR IS ZONED TO PROVIDE THE PRIMARY PURPOSE, OF PROVIDING A PERMANENT DWELLING UNIT AND WHICH IS CLASSIFIED AS RESIDENTIAL IN THE STATE ASSESSMENT ROLLS. TOWNHOUSES ARE INCLUDED IN THIS DEFINITION.

(K) STORMWATER MANAGEMENT FUND MEANS THE FUND CREATED BY THIS CHAPTER TO OPERATE, MAINTAIN, AND IMPROVE THE TOWN'S STORMWATER SYSTEM.

(L) STORMWATER MANAGEMENT MEANS THE PLANNING, DESIGN, CONSTRUCTION, REGULATION, IMPROVEMENT, REPAIR, MAINTENANCE AND OPERATION OF FACILITIES AND PROGRAMS RELATING TO WATER, FLOOD PLAINS, FLOOD CONTROL, GRADING, EROSION, TREE CONSERVATION AND SEDIMENT CONTROL.

(M) STORMWATER SYSTEM MEANS THE SYSTEM OR NETWORK OF STORM AND SURFACE WATER MANAGEMENT FACILITIES INCLUDING BUT NOT LIMITED TO INLETS, CONDUITS, MANHOLES, CHANNELS, DITCHES, DRAINAGE EASEMENTS, RETENTION AND DETENTION BASINS, INFILTRATION FACILITIES, AND OTHER COMPONENTS AS WELL AS ALL NATURAL WATERWAYS.

§ 26-264. ESTABLISHMENT OF STORMWATER MANAGEMENT FUND.

(A) THE STORMWATER MANAGEMENT PROGRAM IS ESTABLISHED AND THE STORMWATER SYSTEM IS PROVIDED TO PROTECT THE WATERWAYS AND LAND IN THE TOWN BY CONTROLLING FLOODING AND TO PROTECT THE NATURAL ENVIRONMENT. THE COSTS OF DESIGNING, DEVELOPING, IMPROVING, OPERATING, MAINTAINING, AND MONITORING THE STORMWATER SYSTEM REQUIRED IN THE TOWN SHOULD, THEREFORE,

BE ALLOCATED, TO THE EXTENT PRACTICABLE, TO ALL PROPERTY OWNERS BASED ON THEIR IMPACT ON THE STORMWATER SYSTEM. IN ORDER TO PROVIDE A REVENUE TO FUND THOSE COSTS AND TO FAIRLY ALLOCATE THOSE COSTS, A STORMWATER MANAGEMENT FUND ("THE FUND") IS ESTABLISHED.

(B) ALL REVENUES COLLECTED FROM THE STORMWATER MANAGEMENT FEE AND FROM GRANTS, PERMIT FEES AND OTHER CHARGES COLLECTED UNDER CHAPTER 26, STORMWATER MANAGEMENT, SHALL BE DEPOSITED TO THE FUND. THE COUNCIL MAY MAKE ADDITIONAL APPROPRIATIONS TO THE FUND. ALL DISBURSEMENTS FROM THE FUND SHALL BE FOR THE PURPOSES OF THE FUND AS SET FORTH IN SECTION 26-265.

§ 26-265. PURPOSES OF THE FUND.

THE FUND SHALL BE USED FOR THE FOLLOWING PURPOSES:

(A) THE ACQUISITION BY GIFT, PURCHASE, OR CONDEMNATION OF REAL AND PERSONAL PROPERTY, AND INTERESTS THEREIN, NECESSARY TO CONSTRUCT, OPERATE, AND MAINTAIN STORMWATER CONTROL FACILITIES.

(B) ALL COSTS OF ADMINISTRATION AND IMPLEMENTATION OF THE STORMWATER MANAGEMENT PROGRAM, INCLUDING THE ESTABLISHMENT OF REASONABLE OPERATING AND CAPITAL RESERVES TO MEET UNANTICIPATED OR EMERGENCY STORMWATER MANAGEMENT REQUIREMENTS.

(C) ENGINEERING AND DESIGN, DEBT SERVICE AND RELATED FINANCING EXPENSES, CONSTRUCTION COSTS FOR NEW FACILITIES, AND ENLARGEMENT OR IMPROVEMENT OF EXISTING FACILITIES.

(D) OPERATION AND MAINTENANCE OF THE STORMWATER SYSTEM.

(E) MONITORING, SURVEILLANCE, AND INSPECTION OF STORMWATER CONTROL DEVICES.

(F) WATER QUALITY MONITORING AND WATER QUALITY PROGRAMS.

(G) RETROFITTING DEVELOPED AREAS FOR POLLUTION CONTROL.

(H) INSPECTION AND ENFORCEMENT ACTIVITIES.

(I) BILLING AND ADMINISTRATIVE COSTS.

(J) OTHER ACTIVITIES WHICH ARE REASONABLY REQUIRED.

§ 26-266. STORMWATER MANAGEMENT FEE.

AN ANNUAL SERVICE CHARGE IS IMPOSED UPON ALL REAL PROPERTY IN THE TOWN, AS OF JULY 1 BILLING OF EACH FISCAL YEAR, AND SHALL BE BILLED MONTHLY, BEGINNING JULY 1, 2013, TO FUND STORMWATER MANAGEMENT PROGRAMS. THIS SERVICE CHARGE SHALL BE KNOWN AS THE STORMWATER MANAGEMENT FEE ("FEE"). ANY REAL PROPERTY ANNEXED INTO THE TOWN AFTER JULY 1 MAY BE SUBJECT TO A PARTIAL YEAR CHARGE. THE FEE IS BASED ON: (1) THE EXTENT TO WHICH EACH PROPERTY CREATES A NEED FOR

THE STORMWATER MANAGEMENT PROGRAM; (2) THE AMOUNT OF IMPERVIOUS AREA ON EACH PROPERTY; AND (3) THE COST OF IMPLEMENTING A STORMWATER MANAGEMENT PROGRAM.

§ 26-267. CLASSIFICATION OF PROPERTY FOR PURPOSES OF DETERMINATION OF THE STORMWATER MANAGEMENT FEE.

(A) FOR PURPOSES OF DETERMINING THE STORMWATER MANAGEMENT FEE, ALL PROPERTIES IN THE TOWN ARE CLASSIFIED INTO ONE OF THE FOLLOWING CLASSES:

- (1) SINGLE-FAMILY RESIDENTIAL PROPERTY; OR
- (2) NON-RESIDENTIAL PROPERTY.

(B) SINGLE-FAMILY RESIDENTIAL FEE. THE COUNCIL FINDS THAT THE INTENSITY OF DEVELOPMENT OF MOST PARCELS OF REAL PROPERTY IN THE TOWN CLASSIFIED AS SINGLE FAMILY RESIDENTIAL IS SIMILAR AND THAT IT WOULD BE EXCESSIVELY AND UNNECESSARILY EXPENSIVE TO DETERMINE PRECISELY THE SQUARE FOOTAGE OF THE IMPROVEMENTS (SUCH AS BUILDINGS, STRUCTURES, AND OTHER IMPERVIOUS AREA) ON EACH SUCH PARCEL. THEREFORE, ALL SINGLE FAMILY RESIDENTIAL PROPERTIES IN THE TOWN SHALL BE CHARGED A FLAT STORMWATER MANAGEMENT FEE, EQUAL TO THE ERU RATE, REGARDLESS OF THE SIZE OF THE PARCEL OR THE IMPROVEMENTS.

(C) NON-RESIDENTIAL PROPERTY FEE. THE FEE FOR NON-RESIDENTIAL PROPERTY IN THE TOWN SHALL BE THE ERU RATE MULTIPLIED BY THE NUMERICAL FACTOR OBTAINED BY DIVIDING THE TOTAL IMPERVIOUS SURFACE AREA (SQUARE FEET) OF THE PROPERTY BY ONE ERU UNIT. THE IMPERVIOUS SURFACE AREA FOR NON-RESIDENTIAL PROPERTY IS THE SQUARE FOOTAGE FOR THE BUILDINGS AND OTHER IMPROVEMENTS ON THE PROPERTY AS LISTED IN THE STATE ASSESSMENT ROLL. ALTERNATIVELY, AT THE SOLE DISCRETION OF THE TOWN ADMINISTRATOR, THE IMPERVIOUS SURFACE AREA OF NON-RESIDENTIAL PROPERTY MAY BE DETERMINED THROUGH SITE EXAMINATION, MAPPING INFORMATION, AERIAL PHOTOGRAPHS OR OTHER AVAILABLE INFORMATION. THE MINIMUM STORMWATER MANAGEMENT FEE FOR NON-RESIDENTIAL PROPERTY SHALL EQUAL THE ERU RATE FOR SINGLE FAMILY RESIDENTIAL PROPERTY.

§ 26-268. ERU RATE.

THE COUNCIL SHALL, BY RESOLUTION, ESTABLISH THE ANNUAL (FISCAL YEAR) ERU RATE FOR THE STORMWATER MANAGEMENT FEE. THE BASE RATE SHALL BE CALCULATED TO INSURE ADEQUATE REVENUES TO FUND THE COSTS OF STORMWATER MANAGEMENT AND TO PROVIDE FOR THE OPERATION, MAINTENANCE, AND CAPITAL IMPROVEMENTS OF THE STORMWATER SYSTEM IN THE TOWN.

§ 26-269. CHARGES FOR TAX-EXEMPT PROPERTIES.

THE COUNCIL FINDS THAT ALL REAL PROPERTY IN THE TOWN CONTRIBUTES TO RUNOFF AND EITHER USES OR BENEFITS FROM THE MAINTENANCE OF THE STORMWATER SYSTEM. ALL REAL PROPERTY IN THE TOWN, INCLUDING PROPERTY THAT IS EXEMPT FROM PROPERTY TAX BY TITLE 7 OF THE TAX-PROPERTY, ANNOTATED CODE OF MARYLAND, AS AMENDED, SHALL BE CHARGED THE FEE.

§ 26-270. ASSESSMENT NOTICES.

(A) THE TOWN ADMINISTRATOR SHALL FOR THE FISCAL YEAR BEGINNING JULY 1, 2013 ONLY, SEND ASSESSMENT NOTICES FOR THE FEE TO PROPERTY OWNERS OF NON-RESIDENTIAL PROPERTY PRIOR TO THE BILLING FOR THE FEE.

(B) THE NOTICE SHALL INCLUDE THE FOLLOWING INFORMATION:

(1) THE CLASSIFICATION OF THE PROPERTY FOR PURPOSES OF DETERMINING THE FEE;

(2) FOR PROPERTY CLASSIFIED AS NON-RESIDENTIAL PROPERTY:

(I) THE IMPERVIOUS SURFACE AREA OF THE PROPERTY; AND

(II) THE METHOD BY WHICH THE IMPERVIOUS SURFACE AREA OF THE PROPERTY WAS DETERMINED; THAT IS, WHETHER THE COMPUTATION OF THE IMPERVIOUS SURFACE AREA OF THE PROPERTY IS BASED ON INFORMATION IN THE STATE ASSESSMENT ROLL, SITE EXAMINATION, MAPPING INFORMATION, AERIAL PHOTOGRAPHS, OR OTHER AVAILABLE INFORMATION.

(3) THE AMOUNT OF THE ERU RATE (I.E., THE SINGLE FAMILY RESIDENTIAL FEE) AND, FOR NON-RESIDENTIAL PROPERTY, THE NUMBER OF ERU UNITS ON THE PROPERTY. IF THE NUMBER OF UNITS IS A FRACTION, IT SHALL BE ROUNDED TO THE NEXT HIGHEST WHOLE NUMBER.

§ 26-271. WHEN STORMWATER MANAGEMENT FEE PAYABLE; INTEREST AND PENALTIES; LIEN ON REAL PROPERTY.

(A) THE FEE THAT IS DUE ON A MONTHLY BASIS MUST BE PAID WITHIN 30 DAYS AFTER THE BILL IS MAILED OR ISSUED TO THE PROPERTY OWNER AND IS OVERDUE AFTER THAT DATE. AN OVERDUE FEE BEARS INTEREST AND PENALTIES AT THE RATE OF 1.5% FOR EACH MONTH OR FRACTION OF A MONTH THAT THE FEE IS OVERDUE.

(B) THE FEE, INCLUDING INTEREST AND PENALTIES, WHEN OVERDUE IS A LIEN ON REAL PROPERTY AND MAY BE COLLECTED IN THE SAME MANNER AS DELINQUENT REAL PROPERTY TAXES OR BY A SUIT AGAINST THE PROPERTY OWNER.

§ 26-272. REQUESTS FOR CORRECTION OF THE STORMWATER MANAGEMENT FEE.

(A) A PROPERTY OWNER MAY REQUEST CORRECTION OF THE FEE BY SUBMITTING THE REQUEST IN WRITING TO THE TOWN ADMINISTRATOR AFTER THE DATE THE ASSESSMENT NOTICE OR THE BILL IS MAILED OR ISSUED TO THE PROPERTY OWNER. GROUNDS FOR CORRECTION OF THE FEE INCLUDE:

(1) INCORRECT CLASSIFICATION OF THE PROPERTY FOR PURPOSES OF DETERMINING THE FEE;

(2) ERRORS IN THE SQUARE FOOTAGE OF THE IMPERVIOUS SURFACE AREA OF THE PROPERTY;

(3) MATHEMATICAL ERRORS IN CALCULATING THE FEE TO BE APPLIED TO THE PROPERTY; AND

(4) ERRORS IN THE IDENTIFICATION OF THE PROPERTY OWNER OF A PROPERTY SUBJECT TO THE FEE.

(B) THE TOWN ADMINISTRATOR SHALL MAKE A DETERMINATION WITHIN 30 DAYS AFTER RECEIPT OF THE PROPERTY OWNER'S COMPLETED WRITTEN REQUEST FOR CORRECTION OF THE FEE. THE TOWN ADMINISTRATOR'S DECISION ON A REQUEST FOR CORRECTION OF THE FEE SHALL BE FINAL.

(C) A PROPERTY OWNER MUST COMPLY WITH ALL RULES AND PROCEDURES ADOPTED BY THE TOWN WHEN SUBMITTING A REQUEST FOR CORRECTION OF THE FEE AND MUST PROVIDE ALL INFORMATION NECESSARY FOR THE TOWN ADMINISTRATOR TO MAKE A DETERMINATION ON A REQUEST FOR CORRECTION OF THE FEE. IF A PROPERTY OWNER ALLEGES AN ERROR UNDER SECTION 26-272(A)(2), THEN THE REQUEST FOR CORRECTION MUST INCLUDE A CERTIFICATION BY A REGISTERED ENGINEER OR PROFESSIONAL LAND SURVEYOR OF THE IMPERVIOUS SURFACE AREA OF THE PROPERTY. FAILURE TO COMPLY WITH THE PROVISIONS OF THIS SUBSECTION SHALL BE GROUNDS FOR DENIAL OF THE REQUEST.

THIS ORDINANCE was introduced and read at a meeting of the Town Council held on the _____ day of _____, 2013, and thereafter a statement of the substance of the Ordinance having been published as required by law was finally passed by the Town Council on the _____ day of _____, 2013.

Adopted and effective this _____ day of _____, 2013 by the Mayor and Council of the Town of Berlin, Maryland, by affirmative vote of _____ to _____ opposed, with _____ abstaining.

Elroy Brittingham, Vice-President

Approved and effective this _____ day of _____, 2013 by the Mayor of the Town of Berlin.

Wm. Gee Williams, Mayor

ATTEST: Anthony Carson, Town Administrator

RESOLUTION 2013-1

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, MARYLAND, A MARYLAND MUNICIPAL CORPORATION, ESTABLISHING, PURSUANT TO CHAPTER 26, ARTICLE V OF THE TOWN CODE, THE SQUARE FOOTAGE OF AN EQUIVALENT RESIDENTIAL UNIT (ERU) AND AMOUNT OF THE EQUIVALENT RESIDENTIAL UNIT RATE (ERU RATE).

WHEREAS, THE MAYOR AND COUNCIL HAVE ENACTED CHAPTER 26, ARTICLE V OF THE TOWN CODE WHICH ESTABLISHES A STORMWATER MANAGEMENT UTILITY AND A STORMWATER MANAGEMENT UTILITY FEE SYSTEM TO BE ASSESSED UPON ALL PROPERTY OWNERS WITHIN THE CORPORATE LIMITS OF THE TOWN; AND

WHEREAS, §26-263(B) OF SAID ORDINANCE DEFINES AN EQUIVALENT RESIDENTIAL UNIT (ERU) AS THE MEDIAN IMPERVIOUS SURFACE AREA ASSOCIATED WITH A SINGLE FAMILY RESIDENTIAL PROPERTY IN THE TOWN; AND

WHEREAS, §26-268 REQUIRES THE MAYOR AND COUNCIL TO ESTABLISH THE EQUIVALENT RESIDENTIAL UNIT RATE (ERU RATE) ON AN ANNUAL FISCAL YEAR BASIS FOR SINGLE FAMILY RESIDENTIAL PROPERTY AND NON-RESIDENTIAL PROPERTY IN THE TOWN.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN AS FOLLOWS:

1. AN EQUIVALENT RESIDENTIAL UNIT (ERU) IS 2,100 SQUARE FEET OF IMPERVIOUS SURFACE.
2. THE EQUIVALENT RESIDENTIAL UNIT RATE (ERU RATE) FOR SINGLE FAMILY RESIDENTIAL PROPERTY IS HEREBY ESTABLISHED AT THE SUM OF FIFTY DOLLARS (\$50.00) ANNUALLY.
3. THE EQUIVALENT RESIDENTIAL UNIT RATE (ERU RATE) FOR NON-RESIDENTIAL PROPERTY IS HEREBY ESTABLISHED AT THE SUM OF TWENTY-FIVE DOLLARS (\$25.00) PER ERU ANNUALLY.

Adopted this _____ day of _____, 20__ by the Mayor and the Town of Berlin, Maryland, by affirmative vote of _____ to _____ opposed, with _____ abstaining.

Elroy Brittingham, Vice-President

Approved this _____ day of _____, 20__ by the Mayor and Town of Berlin.

Wm. Gee Williams, III, Mayor

ATTEST: Anthony Carson, Town Administrator

TOWN ADMINISTRATOR'S REPORT
January 28, 2013

Purchase Orders

PO# 201301983 in the amount of \$2,000.00 to Worcester Youth and Family Counseling for 3rd quarter FY13 expenses.

PO# 201301989 in the amount of \$6,900.00 to L/B Water Service for 4 inch Sensus compact fire meter for Derrickson property. To be paid back to town by property owner.

PO# 201301968 in the amount of \$1,697.50 to Feedwater Treatment Systems for chemicals for Power Plant.

PO# 201302002 in the amount of \$1,356.00 to Feedwater Treatment Systems for chemicals for Power Plant.

PO# 201301722 in the amount of \$1,498.46 to Belair Road Supply for pipe for street repair at 105 Washington Street.

PO# 201302031 in the amount of \$1,200.00 TO Pittsburgh Tank and Tower Maintenance for inspection of water towers located at Franklin Avenue and Route 346.

PO# 201302027 in the amount of \$4,380.00 to Goody Hill Groundwork for repairs to #1 generator concrete pit repairs. To be submitted for insurance claim.

PO# 201301838 in the amount of \$6,012.37 to Goody Hill Groundwork for repairs to force main located at Libertytown sprayfield.

PO# 201302092 in the amount of \$2,040.00 to Electric Motor and Contracting for repairs to generator #1 caused by flooding issues. To be submitted for insurance claim.

PO# 201302101 in the amount of \$1,110.78 to Affordable Business Systems for new printer for utility billing department.

Updates