



Mayor & Council of Berlin

10 William Street, Berlin, Maryland 21811

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Mayor

Wm. Gee Williams, III

Vice President

Elroy Brittingham, Sr.

Council Members

Dean Burrell, Sr.

Lisa Hall

Paula Lynch

Troy Purnell

Town Attorney

David Gaskill

Town Administrator

Laura Allen

BERLIN, MARYLAND

MAYOR AND COUNCIL MEETING

MONDAY, SEPTEMBER 23, 2013

COUNCIL CHAMBERS – BERLIN TOWN HALL

10 WILLIAM STREET

BERLIN, MD 21811

EXECUTIVE SESSION.....NONE SCHEDULED

REGULAR SESSION7:00 PM

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**BERLIN MAYOR AND COUNCIL
COUNCIL MEETING
AGENDA
Monday, September 23, 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 September 9, 2013
 Executive Session of the Mayor and Council on September 6, 2013
 Statement of Closure for Mayor and Council on September 6, 2013

2. Request for Special Event – Berlin Christmas Parade
 Thursday, December 5, 2013; 7:00 p.m. Main Street

3. Public Hearing – Ordinance 2013-06
 An Ordinance amending Chapter 20, Parks

4. Motion to Approve – Award of Contract
 - a. Capital Improvements FY14
 - i. Concrete Curb and Sidewalk – Maple Ave (PO# 201400896)
 - ii. Asphalt repair and Overlay – Maple Ave (PO# 201400897)
 - b. Purchase of Pipe for submerged gravel wetland on Flower St. (PO# 201400925)
 - c. Stephen Decatur Stone Path (PO# 201400905)
 - d. Stephen Decatur Pavilion Roof Repair (PO# 201400966)

6. Departmental Reports
 - a. Finance – Natalie Saleh
 - b. Public Works – Mike Gibbons
 - c. Water Resources – Jane Kreiter
 - d. Electric – Tim Lawrence
 - e. Police – Arnold Downing
 - f. Planning – Dave Engelhart
 - g. Human Resources – Jeff Fleetwood
 - h. Economic and Community Development – Michael Day

7. Town Administrator's Report

8. Comments from the Mayor

9. Comments from the Council

10. Comments from the Public

11. Comments from the Press

12. Adjournment

MAYOR AND COUNCIL OF BERLIN, MARYLAND
Regular Session Council Minutes
Monday, September 9, 2013

The meeting of the Mayor and Council for Monday, September 9, 2013 was called to order by Mayor Williams at approximately 7:04 p.m. Councilmembers Burrell, Hall, Brittingham and Purnell were present, as well as Town Administrator Laura Allen, Town Attorney David Gaskill, Deputy Town Administrator Mary Bohlen, Finance Director Natalie Saleh, Planning Director Dave Engelhart, Police Lieutenant Robert Fisher, Public Works Director Mike Gibbons, Electric Utility Director Tim Lawrence, Economic and Community Development Director Michael Day and Administrative Assistant Sharon Timmons. Human Resources Director Jeff Fleetwood, Water Resources Director Jane Kreiter and Police Chief Arnold Downing were absent. Councilmember Lynch arrived late to the meeting.

Councilmember Lynch arrived at 7:06 p.m. following the recitation of the Lord's Prayer and the Pledge of Allegiance. Mayor Williams asked Ms. Laura Allen to come forward to be sworn in as the new Town Administrator. He then requested that Mr. Dave Engelhart come forward to be sworn in as the new Planning Director.

Mayor Williams asked for a motion for approval of the Regular Session minutes of August 12, 2013. Councilmember Burrell made a motion to approve the minutes of August 12, 2013 and council approved 4-0 with Councilmember Lynch abstaining. Mayor Williams asked for a motion to approve the Executive minutes of August 12, 2013. Councilmember Brittingham made a motion to approve the minutes of August 12, 2013 and council voted to approve 4-0 with Councilmember Lynch abstaining. Mayor Williams asked for a motion to approve the Executive Session minutes of August 26, 2013. Councilmember Lynch made a motion to approve the minutes and council voted to approve 4-0 with Councilmember Brittingham abstaining. Mayor Williams stated that the Executive Session of August 12, 2013 was closed to discuss: (1) to consult with counsel to obtain legal advice on a legal matter; (2) the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; (3) to consider the acquisition of real property for a public purpose and matters directly related thereto and (4) to consult with staff, consultants, or other individuals about pending or potential litigation. Mayor Williams then stated that the Executive Session of August 26, 2013 was closed to discuss: (1) to consult with counsel to obtain legal advice on a legal matter; (2) to consult with staff, consultants, or other individuals about pending or potential litigation; and (3) before a contract is awarded or bids are opened, discuss a matter directly related to a negotiation strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.

Mayor Williams stated that the Town hoped to reinstate the annual grant to the Berlin Fire Company based on the assessment of current needs. Future grant levels would be based on the level of financial budgets and finances subject to an audit of the Fire Company by a firm of the Town's choosing and at the Town's expense. Town Attorney David Gaskill read the budget amendment which would approve reducing the General Fund contingency by \$200,000.00 and transferring these monies to the fire company allocation.

Berlin Fire Company President David Fitzgerald reviewed the statistics and the services provided by the Fire company and disclaimed any threat of discontinuation of services, but stated that the level of service may be affected by decreased funding. Mr. John Stern of Pigg, Krahl and Stern reported on the review he conducted at the Town's request of the Fire company's financial records including reserve funds, allocations and contributions and stated that the Fire Company was in a sound financial position. After heated discussion and comments from several un-named attendees, Councilmember Hall made a motion to approve the budget amendment to transfer \$200,000.00 from the General Fund contingency account to the Fire department account. Council voted unanimously to approve 5-0.

Economic and Community Development Director Michael Day came before the council requesting approval for the Special Event known as Oktoberfest to be held on Saturday, October 19, 2013 from 11 a.m to 7 p.m. Mr. Day explained the street closure request from the hours of 9 a.m. to 10 p.m. to allow for set-up prior to the event and clean-up after the event. Councilmember Hall made a motion to approve the Oktoberfest event and council voted unanimously to approve 5-0.

Item #5 requesting the Special Event Zumbathon was withdrawn from the agenda per request of the applicant.

Mr. Douglas Richards of DDU Magnetics updated the Mayor and Council on the installation of the wind turbine. Mr. Richards stated that there had been some technical set-backs, but they have since been corrected and testing should occur this week with installation to occur in the next 4-6 weeks.

Deputy Town Administrator Mary Bohlen explained the motion to amend the contract with URS regarding the Five Mile Branch Spray Irrigation System. The amendment would extend the contract for 30 days and increase the engineering contract costs by \$40,906.00 to cover change orders, pay request reviews and related project management. Ms. Bohlen stated that the Town would be reviewing the site tomorrow for Substantial Completion and punch list items. Councilmember Burrell made a motion to approve the motion to amend the contract with URS and council voted unanimously to approve 5-0.

Town Attorney David Gaskill introduced and read in its entirety Ordinance 2013-06 which amends Chapter 20, Parks. The public hearing for this Ordinance will be held on September 23, 2013. Councilmember Lynch asked Lieutenant Fisher if the Police department had received any complaints regarding use of the tennis courts until 11 p.m. Lieutenant Fisher stated no complaints had been received.

Economic and Community Development Director Michael Day spoke to the council on Resolution 2013-08, which approves the submission of an application from Maryland Main Street for a technical assistance grant from the Department of Housing and Community Development. The grant funding would assist with the Berlin visitor's center. Councilmember Brittingham made a motion to approve Resolution 2013-08 and council voted unanimously to approve 5-0.

Department Head reports began with Finance Director Natalie Saleh reporting that the audit had begun and would continue through Friday, September 13th.

Deputy Town Administrator Mary Bohlen thanked the staff and department heads for their support during her time as interim Town Administrator. Mayor Williams acknowledged Ms. Bohlen for the great job she had done during the transition period. Ms. Bohlen then presented pictures of the pavilion at Stephen Decatur Park which sustained damage during the microburst on September 1, 2013.

Public Works Director Mike Gibbons reported on the clean-up efforts at the park after the September 1st storm. Mr. Gibbons stated that he was preparing bid documents for the repair of the pavilion roof. Mr. Gibbons then presented pictures of the installation by the Public Works department of the thermoplastic crosswalks at Jefferson Street.

Administrative Assistant Sharon Timmons presented the report for Water Resources Director Jane Kreiter. Ms. Timmons presented powerpoint photos on the West Street Stormwater Project showing the placement of boulders along the bank to assist in the reduction of water velocity and erosion. Ms. Timmons also stated that residents in the area had reported no flooding issues during the last rain event.

Electric Utility Director Tim Lawrence presented powerpoint photos on the Worcester Preparatory Transclosure replacement project. He reported that all 96 of the AMI electric meters had been installed in the downtown area and Mr. Richards from DDU Magnetics would be assisting the Electric department with the connection of the real time controller in the relay room at the substation.

Lieutenant Robert Fisher representing the Police department reported that school was back in session and that bike week would begin this Thursday.

Planning Director Dave Engelhart thanked the Town staff for their support and assistance since the start of his employment and spoke on the recent Historic District and Planning Commission meetings.

Economic and Community Development Director Michael Day reported that the Brown Box Theatre would be performing at the corner of Main and Pitts Street on Friday, September 13th. He also reported that bike week would begin Thursday, September 12th and that the staging area had been moved to the Shop Rite with a ride through parade of bikes on Friday. He also reported on the meetings he would be attending and the upcoming Fiddler's convention.

Town Administrator Laura Allen thanked Mary Bohlen and the other department directors for their assistance. Ms. Allen reported that EA Engineering had received a call from MEMA regarding a grant awarded to the Town in the amount of \$47,000.00 for a new generator at the Branch Street Wellhouse. Ms. Allen then presented 22 purchase orders (201400444, 201400280, 201400615, 201400651, 201400652, 201400705, 201400398, 201400741, 201400742, 201400729, 201400730, 201400088, 201400767, 201400558, 201400813, 201400818, 2014828, 201400826, 201400479, 201400595, 201400679 and 201400838 for approval. Councilmember Brittingham made a motion to approve the 22 purchase orders and payment request and council voted unanimously to approve 5-0.

Ms. Timmons reported that while doing work on Route 346 East, the Gas Company had struck our force main. Water Resources crew members were on site and cleaning up the area and were expected to be there for much of the evening.

Councilmember Hall acknowledged the great job by the Stormwater department on the clean-up of the Stormwater ponds located on Westminster Drive and Upshur Lane. Councilmember Burrell suggested that the Parks Commission look into permanent restroom facilities for the parks. Councilmember Brittingham thanked Public Works Director Mike Gibbons for the work on the sidewalks and lining for Flower Street. Councilmember Burrell asked Mr. Gibbons to investigate a portion of Germantown Road.

Mayor Williams asked for comments from the public or the press. A resident thanked the Mayor and Council for the work previously done on the sidewalks and asked if any work was planned for the corner of Bryan and Cedar Avenues. There being no further comments, Councilmember Burrell made a motion to adjourn the meeting and the meeting ended at 9:31 p.m.

Respectfully submitted



Sharon Timmons
Administrative Assistant

ORDINANCE 2013-06

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, A MARYLAND MUNICIPAL CORPORATION, AMENDING CHAPTER 20, PARKS

Be it resolved by the Mayor and Council of the Town of Berlin that Chapter 20, Article III, Sections 22-49 and 22-50 be amended as follows:

Sec. 22-49. - Rules and regulations.

The rules and regulations for the use of the parks are as set forth herein:

- (1)The washing, waxing, cleaning or repairing of any type of motor vehicle shall be prohibited in the parks; except repairs of an emergency nature.
- (2)The driving or parking of unauthorized motor vehicles in any area of the parks not designated as a parking area shall be prohibited.
- (3)No motor vehicle shall be parked in the parks, whether in the parking areas or otherwise, overnight.
- (4)No mobile home or any other type of structure shall be used for sleeping in the parks, including the parking areas thereof, without permission being obtained from the Mayor and Council.
- (5)No bicycles or other pedal-operated vehicles shall be allowed in the parks except in the parking lots or in areas designated for the riding of said vehicles.
- (6)No animal of any type shall be allowed to occupy the parks of the town except if said animal is on a leash and under the control of the owner or owner's agent.
- (7)No open container of alcoholic beverages shall be possessed in any of the parks.
- (8)The lighted tennis courts and handball courts located in the Stephen Decatur Park shall be permitted to be used after sunset up to and including the hour of 11:00 p.m. Any play on said courts after the hour of 11:00 p.m. and prior to sunrise shall be prohibited.
- (9) All facilities and equipment shall be used in the manner intended; no other use shall be permitted without the express written permission of the Mayor and Council.
- (10) No person shall use the facilities, equipment, or any area of the parks for business-related activity without the express written permission of the Mayor and Council. Authorized business-related activities shall also be subject to the provisions of chapter 8 of this Code, as applicable.

Sec. 22-50. – Violations and penalties.

Any violations of the provisions of this chapter shall be punishable, upon conviction, as a municipal infraction as set forth in article IV of chapter 2 of this Code.

Any vehicle violating any rules or regulations as herein set forth shall be removed and towed at the expense of the owner and operator.

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, Sr., Vice-President.

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

Wm. Gee Williams, III, Mayor

ATTEST: Laura Allen, Town Administrator

TOWN ADMINISTRATOR'S REPORT
September 23, 2013

Purchase Orders

PO# 201400487 in the amount of \$1,495.00 to Envirocorp for August monitoring of wells at Libertytown spray site. (24-4380-40473)

PO# 201400844 in the amount of \$2,346.66 to Capital Tristate Electrical for 1 each Victorian Street Light fixture and fixture head to replace street light damaged on corner of Tripoli and South Main Street. (10-4230-4041)

PO# 201400916 in the amount of \$3,068.26 to Burke Equipment Company for repairs to Kubota. (24-4380-4041)

PO# 201400518 in the amount of \$2,321.35 to Intercoastal Trading for emergency repair to loader due to busted fuel tank. (24-4380-4041)

PO# 201400917 in the amount of \$1,780.00 to Pep-Up for new fuel tank for new spray site at Five Mile Branch Road. (24-4380-4092)

Updates

Town of Berlin
Planning Commission
May 8, 2013 – 6:00PM

APPROVED
9/11/2013

The meeting for the Planning Commission for the May 8, 2013 was called to order by Chris Denny at 6:00PM. In attendance were members Newt Chandler, Ron Cascio, John Barrett, Phyllis Purnell, Bernell Bowen. Members absent were Barbara Stack and Pete Cosby. Also present was Permit Coordinator Carolyn Duffy and Acting Town Administrator Mary Bohlen.

Newt Chandler made the motion to adopt the agenda as written. Ron Cascio seconded the motion and it was unanimously accepted by the commission.

Chairman Chris Denny called for a motion to approve the minutes from the April 10th 2013 meeting. Phyllis Purnell made motion to approve the minutes from the April meeting. Ron Cascio seconded the motion and it was unanimously accepted by the commission.

On the May 8th agenda was the Preliminary Site Plan/ Planned Unit Development Concept for Main Street Homes. The property is located between Tripoli and Bay Street. Mr. Ward began by telling the commission that he had received letters from the residents that lived near the site where the project is to be built. He then summarized the project for the commission; forty homes would front on route 113. Seven single family homes would be affected by the development on Bay Street. The design is to have streets that loop around, storm water ponds and design for interior alley ways. They would access the garages from the alley way. The property has been vacant for many years and is being developed as a PUD open density. Mr. Ward explained to the commission that they could approve the design and discuss the impact.

Forty lots would generate 400 additional travel trips from vehicles most likely from Bay Street because of the light assuming there would be a split between the streets. Bay Street would have the most impact. In the report he added dead end streets and what the town standards referred to about cul de sacs being put in for emergency purposes on dead end streets. The density is below what is allowed. The developer has decreased front yard setbacks and backyard setbacks 5 feet. A drainage plan must be presented, lighting, landscaping etc. He told the commission they were looking at a PUD and a subdivision at the same time. The Berlin electric department reviewed the plans also. They wanted to look at the overall plans for boxes and would like to be able to loop interconnection. Mr. Ward told them they had gone through primary plat review three years ago. He also let them know that the Mayor & Council could allow variances.

Mr. Dombert told the commission that this was the same subdivision from 2009 and that their company had been developing for many years. He told the commission that there would be no garages by the road they would be in the back and they will have a HOA. They confirmed with state highway on the entrance for 30 feet. He said from a 30 ft. entrance it would look large and they are prepared to build it. Mr. Dombert told the commission that he had not focused on the neighbors but would grant them an easement for their garages. If they are granted that land they would have frontage they plan to look for a waivers on front & side setbacks. The houses would have porches and seating near the sidewalk. As far as the electric he said they are used to the

electric being interconnected. Side walks on both sides of the street, he know they have some things to work out with neighbors and also the street B.

Mr. Cascio told Dombert that he didn't like it. He wanted to know if he had spoken with state highway about the 30ft wide entrance. Dombert replied that there is a standard, before it was 24 feet. Discussion about parking on the street, Mr. Ward informed them that if built to town standards the town would decide. Mr. Cascio asks for consideration about putting in planting strips. Mr. Dombert told him could be possible but they are trying to be subtle, didn't think it was the right feel. Mr. Dombert told the commission that side walks would run out to Tripoli and each house would have sidewalks in front of them. Mr. Cascio asks if the home owners that live on the corner of Bay could be granted an easement. Mr. Ward told the commission that it would look like they had a corner lot, they would not be able to access the street. He told the commission six new lots could be added if they chose to. If it remained open space it would be an inconvenience to the property owner. Dombert questioned how they would get sewer. He said they would landscape and maintain it, in lieu of that they would allow access. Mr. Ward explained that granting an easement you would need road frontage with open space, the rear yard has no frontage.

He told the commission that the code enforcement would handle the issues it's not for the developer to enforce. Mr. Dombert said he would be glad to come to an agreement, didn't want to take away from the residents. Mr. Ward told them the subdivision requires new lots front on a street, wanted to make it clear he didn't believe subdivisions could override. Mr. Ward said currently there was a structure on Mr. Dennis's yard prior to doing that would need to be documented by surveyor. So it becomes non-conforming use and land owners are not responsible. Mr. Cascio asks Mr. Dennis if he had any thing to say he said he concurred with what Mr. Ward had said. He said his daughter will own it and they have life time rights. Mr. Berrell Bowen asks if there would be a landscape buffer along Rt. 113. They had not shown it on the plans. Mr. John Barrett told Mr. Dombert that they had talked about heavier landscaping when they had come in before.

Discussion on how much vegetation and how much will be eaten up where storm water ponds were located and where the pipes had to go. The houses were to be two stories have a garage with storage. Garage could become optional. Mr. Cascio asks if they would have architectural review of garages. Mr. Ward asks if a car could back out of the alley. Dombert told them it would be hard to get in or out. Mr. Cascio suggested they have a vegetative buffer. Steve Hutchins told them that a berm has to be maintained. Discussion on the wiring, and cable took place; Mr. Dombert let them know he would make it work. Ron asks if that meant he would put the wiring in the back, he said he would try to make it work. Mr. Cascio told Dombert that lots 17, 18, and 19 were problems he said 5 lots within 150 ft. Ron asks if he could create a cal de sac.

Mr. Ward told him he could reduce the corner lot and bring the other lots closer. Mr. Ward told Mr. Dombert that it needed to be resolved and if they needed a variance he would give them a letter and it was on record. He explained there is nothing that is unresolvable. Ron Cascio told Dombert that he recalled a discussion that Becker Morgan was doing storm water. He recalled that Jeff Harmon said they would have to accommodate. He said I heard you have a waiver, in

Berlin we have a utility and it pains me, he asks if they could follow the new regulations. Mr. Dombart told the commission that they were approved because of where they were at in the process. He told them if they go to the new regulation they are dry, the old regulations are wet. He also stated they would do the rain gardens. Steve Hutchins told the commission that the ponds function the same, they have submerged gravel wetlands. More discussion continued on ponds and elevations. Mr. Cascio told the applicant when they come back they should have all the details. Mr. Ward said all the details should be on the plans electric, lighting etc. Chairman asks Mr. Ward was there any thing he needed to add he responded sidewalks.

Ron made motion to approve the preliminary site plan contingent on the recommendations that had been discussed; the width of the new street, street B, alleyway, cal-de sac, entrance, easements for the neighbors, electric, sidewalks and the landscaping and try to implement the new storm water regulations. Newt Chandler seconded the motion and it was unanimously accepted by the commission.

Chairman Denny called for any comments from the commission and the public. There being no comments, motion to adjourn. Meeting ended at 7:30PM.

Respectfully Submitted,



Carolyn Duffy
Permit Coordinator