



**BERLIN MAYOR AND COUNCIL
Meeting Agenda**

**Berlin Town Hall
10 William Street
Monday, February 11, 2019**

6:30 PM EXECUTIVE SESSION – Conference Room

- a. Pursuant to Section §3-305(b)(7) – To consult with counsel to obtain legal advice on a legal matter.
- b. Pursuant to Section §3-305(b)(14) Before a contract is awarded or bids are opened, to discuss a matter directly related to a negotiating 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.

7:00 PM REGULAR SESSION – Council Chambers

1. Approval of the Minutes for:
 - a. Regular Session of 01/28/19
2. Public Works Update on Republic Services – Public Works Superintendent David Wheaton
3. Motion 2019-04: Motion approving adult drop-in tennis on Wednesdays from 10:00 AM to 12:00 PM from April 3, 2019 to May 29, 2019 at Stephen Decatur park to be conducted by Worcester County Department of Recreation & Parks – Administrative Services Director Mary Bohlen
4. Motion 2019-05: Motion approving Ocean’s East to purchase forty-eight (48) new equivalent dwelling units (EDU) – Blair Rinnier
5. Departmental Reports:
 - a. Finance Director – Natalie Saleh
 - b. Administrative Services Director – Mary Bohlen
 - c. Water Resources/Public Works – Jane Kreiter
 - d. Electric – Tim Lawrence
 - e. Chief – Arnold Downing
 - f. Planning – Dave Engelhart
 - g. Economic and Community Development – Ivy Wells
 - h. Managing Director – Jeff Fleetwood
6. Town Administrator’s Report
 - a. Community Center and YMCA Survey Update
7. Comments from the Mayor

8. Comments from the Council
9. Comments from the Public
10. Comments from the Press
11. Adjournment

Anyone having questions about the meetings mentioned above or needing special accommodations should contact Laura Allen, 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
Meeting Minutes
Monday, January 28, 2019

Agenda Item # |

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

Present: Mayor Gee Williams, Vice-President Elroy Brittingham, Councilmembers Thom Gulyas, Zackery Tyndall, and Dean Burrell.

Absent: Councilmember Troy Purnell

Staff Present: Director Jeff Fleetwood, Finance Director Natalie Saleh, Police Chief Arnold Downing, Electric Utility Director Tim Lawrence, Economic and Community Development Director Ivy Wells, Town Attorney David Gaskill, and Town Clerk Kelsey Jensen.

Following the Lord’s Prayer and Pledge of Allegiance, Mayor Williams called the meeting to order at approximately 7:00 PM.

1. Approval of the Minutes for:

a. Executive Session of 01/14/19:

On the motion of Councilmember Gulyas, the Executive Session minutes of January 14, 2019 were approved by the following vote:

Name	Counted toward Quorum			Recused	Absent
	Aye	No	Abstain		
Elroy Brittingham, VP	X				
Dean Burrell	X				
Troy Purnell					X
Thom Gulyas	X				
Zackery Tyndall	X				
<i>Voting Tally</i>	4				1

b. Statement of Closure for Executive Session of 01/14/19:

Mayor Williams read the Statement of Closure.

c. Regular Session of 01/14/19:

On the motion of Councilmember Gulyas, the Regular Session Minutes of January 14, 2019 were approved by the following vote:

Name	Counted toward Quorum			Recused	Absent
	Aye	No	Abstain		
Elroy Brittingham, VP	X				
Dean Burrell	X				
Troy Purnell					X
Thom Gulyas	X				
Zackery Tyndall	X				
<i>Voting Tally</i>	4				1

2. Berlin Fire Company presentation of quarterly financial report

BFC President David Fitzgerald, Assistant Fire Chief Robert Rhode, and EMS Captain John Holloway presented information on Fire and EMS. Councilmember Tyndall asked if they had any upcoming

fundraisers that they wanted to share with the press; Mr. Fitzgerald did not. Vice President Brittingham asked if they had to fix or replace the boiler; Mr. Fitzgerald said it is being fixed until the summer when they can hopefully replace it. Mayor Williams asked if we can get first and second response times from the County for EMS; Mr. Fitzgerald said it is hard to track but they can try to get some information on it. Councilmember Gulyas asked when the data was sent to John Sterns; Mr. Fitzgerald said last week, but it comes from the accountant, so he will need to check; Mr. Gulyas asked him to send that information to Mr. Fleetwood. Councilmember Gulyas asked what the plans are with the old library; Mr. Fitzgerald said it would be for meeting, office, and training space. He said they want to free up space for bunkrooms in the Firehouse. Mayor Williams said he thinks they should consider renting the old library space out so that everyone is doing their part to raise more funds. Councilmember Tyndall asked if the letter from the Town and Fire Company have been sent to the new Emergency Services Director; Mr. Fitzgerald said they sent theirs and gave a copy to Ms. Allen. Mayor Williams said they should have communicated that because the Town did not know and has not sent theirs. Councilmember Gulyas asked what the new station space will be used for; Mr. Fitzgerald said apparatuses.

3. Resolution 2019-01: Resolution adopting the revisions to the Nonprofit Grant Policy as recommended

Managing Director Jeffrey Fleetwood explained the Resolution Amendments. Mayor Williams explained that these recommendations came after the original policy was put in place. On the motion of Councilmember Tyndall, Resolution 2019-01 was approved by the following vote:

Name	Counted toward Quorum			Recused	Absent
	Aye	No	Abstain		
Elroy Brittingham, VP	X				
Dean Burrell	X				
Troy Purnell					X
Thom Gulyas	X				
Zackery Tyndall	X				
<i>Voting Tally</i>	4				1

4. Departmental Reports:

- a. Electric Utility Director – Tim Lawrence

Mr. Lawrence discussed new underground service locations, MDE regulations, possible peak shaving times, LED replacements, and a power outage last week.

- b. Economic and Community Development Director – Ivy Wells

Ms. Wells discussed restaurant weeks success, the Valentines event on February 9th, farmers market plans, façade grants, business vacancies and relocations and a sustainability designation application. She also mentioned that she received the bright idea award from the Berlin Chamber of Commerce and that the Town will be receiving a \$5,000 check for their support through the year.

5. Town Administrator’s Report – Jeffrey Fleetwood present on behalf of Laura Allen

Mr. Fleetwood had nothing to report.

6. Comments from the Mayor:

Mayor Williams had no comments.

- 7. Comments from the Council:
Vice-President Brittingham said the Police Department received great coverage for their bodycams on the news.
- 8. Comments from the Audience – none.
- 9. Comments from the Press – none.
- 10. Adjournment:
On the motion of Councilmember Burrell, the Mayor and Council meeting was adjourned at approximately 7:50PM.

Name	Counted toward Quorum			Recused	Absent
	Aye	No	Abstain		
Elroy Brittingham, VP	X				
Dean Burrell	X				
Troy Purnell					X
Thom Gulyas	X				
Zackery Tyndall	X				
<i>Voting Tally</i>	4				1

Respectfully Submitted,


 Kelsey Jensen
 Town Clerk

Update:

Public Works Update on Republic Services –
Public Works Superintendent David Wheaton



MOTION OF THE MAYOR AND COUNCIL 2019-04

A MOTION OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN APPROVING ADULT DROP-IN TENNIS ON WEDNESDAYS FROM 10:00 AM TO 12:00 PM FROM APRIL 3, 2019 TO MAY 29, 2019 AT STEPHEN DECATUR PARK TO BE CONDUCTED BY WORCESTER COUNTY DEPARTMENT OF RECREATION & PARKS.

APPROVED THIS ____ DAY OF _____, 2018 BY THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, MARYLAND BY AFFIRMATIVE VOTE OF ____ TO ____ OPPOSED, WITH ____ ABSTAINING, AND ____ ABSENT.

Elroy Brittingham, Sr. Vice President

Approved this ____ day of _____, 2018 by the Mayor of the Town of Berlin.

Wm. Gee Williams, III, Mayor

ATTEST: _____
Laura Allen
Town Administrator



TOWN OF BERLIN PARK FACILITY RESERVATION FORM



THIS FORM MUST BE COMPLETED AND DELIVERED TO TOWN HALL WITH DEPOSIT IN ORDER TO CONFIRM RESERVATION. NO VERBAL RESERVATIONS WILL BE ACCEPTED.

TODAY'S DATE: 2/5/19

EVENT/ACTIVITY DATE: 4/3 to 5/29/19 TIME FROM: 10 AM TO: NOON
Anticipated # of attendees unk

NAME: Mary Bohlen

ADDRESS: 10 William Street
Berlin, MD 21811

PHONE: 410-641-4314

EMAIL: mbohlen@berlinmd.gov

ORGANIZATION: Berlin Parks Commission
(IF APPLICABLE)

WILL EVENT INVOLVE SALE OF GOODS OR SERVICES: YES NO
If yes, Business Use of Park Application must be completed and approved by the Mayor and Council. Form must be submitted no less than 60 days prior to the event.

DESCRIPTION OF EVENT/ACTIVITY: Drop-In Tennis

FACILITY REQUESTED-Check all that apply

Dr. William Edward Henry Park, Flower Street:	Stephen Decatur Park, Tripoli Street:
<input type="checkbox"/> Pavilion: # days _____ X \$50.00 = \$ _____	<input type="checkbox"/> Pavilion: # days _____ X \$50.00 = \$ _____
<input type="checkbox"/> Electric: # days _____ X \$10.00 = \$ _____ (pavilion only)	<input type="checkbox"/> Electric: # days _____ X \$10.00 = \$ _____ (pavilion only)
<input type="checkbox"/> Basketball Courts: <input type="checkbox"/> #1 <input type="checkbox"/> #2 <input type="checkbox"/> #3 #courts _____ X # days _____ X \$50.00 = \$ _____	<input checked="" type="checkbox"/> Tennis Courts: <input checked="" type="checkbox"/> #1 <input checked="" type="checkbox"/> #2 <input checked="" type="checkbox"/> #3 <input checked="" type="checkbox"/> #4 #courts _____ X # days _____ X \$50.00 = \$ _____
TOTAL DUE: \$ _____	TOTAL DUE: \$ <u>N/A</u>

Note \$25.00 per facility/per day will be returned to user if left in good condition after use.

All individuals and organizations are responsible for payment of this fee in full to hold the requested date. A waiver of this fee can only be granted by the Mayor and Council; request must be submitted no later than the close of business the Wednesday preceding a Mayor and Council Meeting prior to the reservation date.

Notes/Comments: Partnering with Wor. County Recreation & Parks to offering drop-in tennis sessions at SDP

tennis courts. No Town Services required.

I, the undersigned have been provided with a copy of the Park rules and regulations and I understand that I must adhere to these rules. If I fail to adhere to the Park rules and regulations, the Town of Berlin reserves the right to refuse to reserve the park in my name in the future. I further understand that the rules and regulations provided herewith are an excerpt of Chapter 22 of the Code of the Town of Berlin and other sections of that chapter and of the Town Code as a whole may also apply to use of the park(s). I am responsible for collection and removal of all trash associated with my event. I understand that vehicles are not permitted in the parks beyond the parking lots. NO EXCEPTIONS. I understand that this reservation is only for the facility indicated above; all other areas of the park are open to the public and may be in use during my event. The Town of Berlin and its agents are released from all liability associated with damage or injury resulting from the improper use of any equipment provided by the Town of Berlin and from damage or injury associated with the use of any equipment or items brought into the park by me or anyone associated with this event.

Signature: Mary Bohlen Date: 2/6/19

Office Use:	
Clerk: _____ Deposit Pd: \$ _____ Date: \$ _____	Refund: <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____



BUSINESS USE OF PARK APPLICATION



This form is required when sale of goods or services is being requested in connection with an event or activity within a Town of Berlin Park, or on a recurring basis within a Town of Berlin Park. A Vendor's Application and Certification for Peddling and Soliciting will also be required.

Name of Business: Berlin Parks Comm/ Wor Rec & Parks Agent/Responsible Party: Mary Bohlen
(Individual Person must be identified)
Address 10 William Street Phone #: (W) (410) 641-4144 (C) _____
Berlin, MD 21811 Email: mbohlen@berlinmd.gov

Park where activity or event will occur: Stephen Decatur Park William Henry Park

Purpose of Facility Use: Drop-In Tennis Sessions

Requested Days/Times of Use: Wednesdays, 10 AM to Noon, April 3-May 29, 2019

of Persons Expected to participate in activity/event unk

List all individuals/employees who may/will conduct the business activity:

1) Kelly Buchanan, Wor. Cnty Rec.	6)
2)	7)
3)	8)
4)	9)
5)	10)

Please add any other information relevant to this application: _____

The Berlin Parks Commission is partnering with Worcester County Recreation and Parks to offer programming at the Stephen Decatur Park tennis courts. No Town Services are required.

Reverse must be completed and signed.

AGREEMENT

By signing below, the agent/responsible party understands that, until approval by the Mayor and Council, this form is an application for use of the parks for the aforementioned purposes, and not a permit for use. He/She further assumes full responsibility for complying with the rules and regulations set forth in the Town of Berlin Code of Ordinances and, specifically, Chapter 22, "Parks and Recreation", Sec. 22.48-50, as well as any additional terms and conditions imposed by the Mayor and Council of the Town of Berlin. He/She understand that failure to comply may result in:

1. The imposition of limitations to this permit; and/or
2. Withdrawal of this permit; and/or
3. Refusal by the Mayor and Council to authorize future use by the entity.

A copy of this permit must be in the possession of the person conducting the business activity and shown upon request.

I, further acknowledge and agree to the following:

- 1) The Mayor and Council of the Town of Berlin reserves the right to refuse approval of any permit for any reason at their discretion.
- 2) I am responsible for application for and payment of a Town of Berlin Business License Fee or Vendor Permit as applicable under the Code of the Town of Berlin, Chapter 8.
- 3) If the nature of the business activity involves the sale or provision of food or drink to be prepared on site and/or prior to sale and to be sold to and/or consumed by the public, I am responsible for obtaining any and all applicable permits from any other agencies including, but not necessarily limited to, agencies of Worcester County and the State of Maryland. The Mayor and Council of the Town of Berlin reserves the right to deny approval of this permit pending verification of appropriate permits obtained from any other agency as applicable. Alcohol sales are prohibited under any circumstance.
- 4) That, if applicable, I am responsible for completion and submission of road closure permit forms to the State Highway Administration.
- 5) The Town of Berlin is in no way responsible for my adherence to the above conditions and that any fees associated with this permit, including the Town of Berlin Business License Fee and/or Vendor Permit, paid to the Town of Berlin, are separate from and unrelated to any fee charged for any other purpose by any other agency.
- 6) I will maintain insurance appropriate to the activity proposed and will provide proof of said insurance upon request.
- 7) If appropriate to the activity proposed, I will have my customers/clients sign documents acknowledging that the Town of Berlin holds no responsibility for any loss/injury/damage incurred by their participation in my business activity.
- 8) I will be responsible for any damage to Town of Berlin owned or leased property incurred as a result of my use of the facility under this permit.
- 9) Under no circumstance are motorized vehicles permitted on parks' grounds, except those areas designated for parking of motor vehicles.

Signature: Mary T. Bohlen Date: 2/6/19

Printed Name: Mary T. Bohlen

Office Use Only: Date Rec'd: _____ Initials: _____
Approved by the Mayor and Council of the Town of Berlin on the ____ day of _____.
_____ For to _____ Opposed with _____ Abstaining
Additional Conditions/Notations:

adult

Drop-In Tennis

Wednesdays,

April 3 - May 29, 2019

TIME: 10:00 a.m. - 12:00 p.m.

WHERE: Stephen Decatur
Park - Tennis Courts

OPEN TO: Ages 14 & older

COST: \$3 per session or
\$25 for the quarter

REGISTRATION:

- Mail In
- In Person

All payments must be received prior to participation.
Make checks payable to: Worcester County

in
partnership
with



The Drop-In format is informal and open to everyone. All levels, ages, abilities, and genders are accepted. Just show up with your racquet! Players are asked to be flexible.

Contact Kelly Buchanan for more information at 410-632-2144 x2503 or kbuchanan@co.worcester.md.us



www.WorcesterRecandParks.org

Youth Registration Form

Please use a separate registration form for each participant under 18.

Worcester County Drop-In Tennis Spring 2019

Name: _____ Age: _____ Male or Female

Address: _____ City: _____ State: _____ Zip: _____

Date of Birth: _____ School Attending: _____ Grade: _____

Parent/Guardian Name: _____ Home Phone: _____ Daytime/Cell: _____

E-mail: _____

Please check here if you would like to receive email announcements on future programs from Worcester County Recreation & Parks.

Emergency Contact Name: _____ Phone: _____

The undersigned, intending to be legally bound for myself and on behalf of my child, as well as, my heirs, and personal representatives do hereby indemnify, release and discharge the County Commissioners of Worcester County and the Town of Berlin, its representatives, employees, contractors, volunteers, and successors and assigns (herein after called "Indemnities"), from any and all liability for injuries, death or damages and from any and all loss, claim, or injuries to my child or to my property, of any kind, arising in any way out of my child's participation in this program. I agree that I will defend, indemnify and hold harmless each and every one of the Indemnities against all claims, demands and causes of action including court costs and attorney's fees directly or indirectly from any action or other proceeding arising in any way from participation by my child in the program. This indemnity, waiver release extends to all claims whether foreseen, unforeseen, known or unknown. I have full knowledge of the risks involved in this program. My child is physically able and has sufficient training for participation in this program. I hereby authorize medical treatment, at my expense, for my child in the event of an injury or illness during the program. I acknowledge that the County and the Town of Berlin provides no insurance protecting my child. If pictures are taken during the program, I authorize the use of these photos for publicity purposes. The staff of Worcester County Department of Recreation & Parks and the Town of Berlin is committed to providing reasonable accommodations to all participants. If you have special needs, please notify the Worcester County Department of Recreation & Parks at 410.632.2144 so that we can plan accordingly for these needs. We cannot guarantee that your request will be met unless the Worcester County Department of Recreation & Parks is notified in advance. Worcester County Department of Recreation & Parks and the Town of Berlin reserves the right to cancel a program or division which does not meet certain requirements. If the staff of the Worcester County Department of Recreation & Parks and the Town of Berlin cancels an entire program, the staff will refund all monies. All refund payments will be paid in the form of a county check issued to the payer. Other cancellations on the part of the participant will be refundable as long as it occurs before the program start date or within 2 weeks after the start of a program for a 12-week programs. Other cancellations on the part of the participant will be refundable as long as it occurs before the program start date or after one program session for a 6-week program or summer camp program. Cancellations made by a participant after the above stated timeline will be non-refundable. If a participant is suspended from a program due to inappropriate behavioral, no refund will be given for that program. If a medical condition arises that prohibits a participant's ability to participate in the program, a refund will be issued only if a doctor's note is submitted to the staff at the Recreation Center and a prorated percentage of the registration fee will be refunded. For example, if half of the program has occurred, a participant will only be refunded half of the registration fee.

Parent/Legal Guardian Signature: _____ Date: _____

Office Use Only

Date: _____ Amount: _____ Cash, Chk, or CC # _____ Initials: _____ Receipt # _____

Adult Registration Form

Please use a separate registration form for each participant.

Worcester County Drop-In Tennis Spring 2019

Name: _____

Address: _____ City: _____ State: _____ Zip: _____

Male or Female Age: _____ Date of Birth: _____ E-mail: _____

Please check here if you would like to receive email announcements on future programs from Worcester County Recreation & Parks.

Home Phone: _____ Daytime Phone: _____ Cell Phone: _____

Emergency Contact Name: _____ Phone: _____

The undersigned, intending to be legally bound, as well as my heirs and personal representatives do hereby indemnify, release and discharge the County Commissioners of Worcester County and the Town of Berlin, its representatives, employees, contractors, volunteers and successors and assigns (hereinafter called "Indemnities"), from any and all liability for injuries, death or damages and from any and all loss, claim, or injuries to me or to my property, of any kind, arising in any way out of my participation in this program. I agree that I will defend, indemnify and hold harmless each and every one of the Indemnities against all claims, demands and causes of action including court costs and attorney's fees directly or indirectly arising from any action or other proceeding arising in any way from my participation in this program. This indemnity, waiver and release extends to all claims whether foreseen, unforeseen, known or unknown. I have full knowledge of the risks involved in this program. I am physically able and have sufficient training for participation in the program. I hereby authorize medical treatment, at my expense in the event of injury or illness during the program. I certify that I am eighteen (18) years of age or older. I acknowledge that the county and the Town of Berlin provides no insurance protecting me. If pictures are taken during the program, I authorize the use of these for publicity purposes. The staff of Worcester County Department of Recreation & Parks and the Town of Berlin is committed to providing reasonable accommodations to all participants. If you have special needs, please notify the Worcester County Department of Recreation & Parks at 410.632.2144 so that we can plan accordingly for these needs. We cannot guarantee that your request will be met unless the Worcester County Department of Recreation & Parks is notified in advance. Worcester County Department of Recreation & Parks and the Town of Berlin reserves the right to cancel a program or division which does not meet certain requirements. If the staff of the Worcester County Department of Recreation & Parks and the Town of Berlin cancels an entire program, the staff will gladly refund all monies. All refund payments will be paid in the form of a county check issued to the payer. Other cancellations on the part of the participant must be made prior to one week before the start of the program to be eligible for a refund. Any cancellations made by a participant after the above stated timeline will be non-refundable. If a participant is suspended from a program due to inappropriate behavioral issues, no refund will be given for that program. If a medical condition arises that prohibits a participant's ability to participate in the program, a refund will be issued only if a doctor's note is submitted to the staff at the Recreation Center and a prorated percentage of the registration fee will be refunded. For example, if half of the program has occurred you will only be refunded half of the registration fee.

Participant's Signature: _____ Date: _____

Office Use Only

Date: _____ Amount: _____ Cash, Chk, or CC # _____ Initials: _____ Receipt # _____



MOTION OF THE MAYOR AND COUNCIL 2019-05

A MOTION OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN APPROVING OCEAN'S EAST TO PURCHASE FORTY-EIGHT (48) NEW EQUIVALENT DWELLING UNITS.

APPROVED THIS ____ DAY OF _____, 20____ BY THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, MARYLAND BY AFFIRMATIVE VOTE OF ____ TO ____ OPPOSED, WITH ____ ABSTAINING AND ____ ABSENT.

ELROY BRITTINGHAM, SR. VICE PRESIDENT

APPROVED THIS ____ DAY OF _____, 2019 BY THE MAYOR OF THE TOWN OF BERLIN.

WM. GEE WILLIAMS, III, MAYOR

ATTEST: _____
LAURA ALLEN
TOWN ADMINISTRATOR

WATER AND SEWER USE AND ALLOCATION AGREEMENT

Made this _____ day of _____, 2019 by and between 9828 Seahawk Road, LLC, hereinafter referred to as “Owner”, and the Town of Berlin, hereinafter referred to as “Berlin or “Town of Berlin”.

WITNESSETH:

Whereas, the Owner is the owner in fee simple of certain property located in Worcester County, Maryland and known as 9828 Seahawk Road, LLC, Berlin, MD., Tax Map 25, Parcel 91; hereinafter referred to as the “Property”; and

Whereas, the Property consists of an Apartment Community. Building Two and Building Seven contain 48 units (“Unit”); and

Whereas, Berlin Standards and Specifications require the following:

Whereas, the Property is allocated under policies and procedures of Berlin a Water and Sewer allocation of forty-eight (48) Equivalent Dwelling Units (“EDU) equal to 12,000 gpd; and

Whereas, the Owner may in the future desire to subdivide the Property, or divide the Property by metes and bounds or by other means for the purpose of sale or otherwise change the permitted uses or intensify or increase a previously permitted use on the Property so as to modify the water and sewer usage attributable to the Property; and

Whereas, this Agreement is not intended and shall not be construed as authorizing any EDU’s in addition to the forty-eight (48) EDU(s) allocated to the Property; and

Whereas, this Agreement is intended only to authorize the specific uses so as to assure the Town of Berlin that the use of the Property does not utilize in excess of forty-eight (48) EDU(s), not to exceed 12,000 gpd.

Now, Therefore, in consideration of permission granted by the Town of Berlin to allow Owner or Owner’s successors, personal representatives and assigns, a water and sewer allocation from the Town of Berlin equal to forty-eight (48) EDU(s) or 12,000 gpd for the Project, the Owner does hereby covenant and agree for itself, and for all its purchasers, lessees, successors and assigns, to and with the Town of Berlin, as follows:

1. Historical metered flows were determined by the master meter on the Property from 24 months of continuous usage immediately prior to the

approval date of this agreement and these flows were used in the allocation of forty-eight (48) EDU(s) or 12,000 gpd.

2. Owner specifically acknowledges and agrees that any changes to the approved use including any increase to or enhancement of a previously approved use may not be made without the prior express written approval of the Town of Berlin.
3. The Property is only approved for forty-eight (48) EDU(s), Owner is to notify the Town of Berlin for approval of any change in use or ownership. The Owner further agrees and understands that a Zoning Permit shall be required for any change of use.
4. The Town shall monitor water consumption as an indication of actual sewer flow to a non-residential unit or project for a period of twenty-four months following completion of the entire project. If the flow exceeds the established EDU's allocated to the property, the owner of the non-residential unit or project will be assessed additional Special Connection Charges as appropriate, at the rate previously paid by the owner to reflect the additional flow in excess of the previously allocated number of EDU's. Any fractional portion shall be rounded to the next highest whole number. The owner agrees that it is required to purchase additional EDU'S if the actual flow exceeds the established EDU'S allocated to the property and understands and agrees that the failure to purchase additional EDU'S may result in the termination of water and sewer service to the property at the discretion of the Town of Berlin.
5. Flow projections for the Property shall be calculated by the Town utilizing the flow projections provided in the Guidance Document, titled Wastewater Capacity Management Plans, 2006, published by the State of Maryland Department of the Environment, as amended, ("Guideline") except for medical office use.
6. Effective December 31, 2006, when the proposed use is for medical office space, flow projections for such use shall be calculated by the Town by multiplying the gross square footage of such medical office space times 0.10 to determine the projected flow in gallons per day ("Medical Office Guideline".)
7. Effective February 25, 2008, when the proposed use is for carry-out only, flow projection for such use shall be calculated by the Town by multiplying the gross square footage, to include all seating and food preparation area, including non-public space behind the counter but not a walk in refrigerated space if within the footprint of the building, times 0.5 gpd to determine the projected flow in gallons per day. If seating is

planned the numbers of seats are multiplied by 25 gpd and the greater flow of the seating or square foot flow will be used. ("Carry -out Guideline".)

- 8. The Town shall review each request for a change in use, expansion of the use, or intensification of the use and, within 45 days of submission, calculate the projected flow pursuant to the Guidelines and Medical Office Guideline. Uses, which result in projected or actual flows in excess of the EDU allocated hereunder, shall not be permitted. The Town may extend the 45-day period provided that it notifies the Owner in writing that it requires additional time to calculate the projected flow.
- 9. The foregoing covenants shall be deemed to run with and bind the Property and shall inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns. Enforcement by the Town may include but not be limited to injunctive relief, the application of use surcharges or other fees or any other remedy deemed appropriate by the Town.

IN WITNESS WHEREOF, the parties hereto set their hands and seals as of the day and year first above written.

ATTEST:

OWNER's Name

_____(Seal)
Type name & title if any

STATE OF MARYLAND, WORCESTER COUNTY, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, 2019, before me, a Notary Public of the State and County aforesaid, personally appeared _____ and acknowledged the foregoing agreement to be his/her respective act.

AS WITNESS my hand and Notarial Seal.

Notary Public

My commission expires:

ATTEST:

SECOND OWNER's Name

_____(Seal)
Type name & title if any

STATE OF MARYLAND, WORCESTER COUNTY, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, 2019, before me a Notary Public of the State and County aforesaid, personally appeared _____ and acknowledged the foregoing agreement to be his/her respective act.

AS WITNESS my hand and Notarial Seal.

Notary Public
My Commission expires:

Lien Holder Consent

The undersigned is joining in the execution of this Water and Sewer Allocation Agreement, solely for the purposes of (a) consenting to the terms hereof, and (b) agreeing that this Agreement shall not be terminated or affected in any manner by a foreclosure or other transfer of the Property under the Deed of Trust recorded in Liber _____ Folio _____.

WITNESS

By: _____
Name: _____
Title: _____

Town of Berlin

ATTEST:

Mayor

STATE OF MARYLAND, WORCESTER COUNTY, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, 2019, before me, a Notary Public of the State and County aforesaid, personally appeared _____ and acknowledged himself to be the _____ of the Town of Berlin, and that he, as such _____, being authorized so to do, executed the foregoing agreement for the purposes therein contained.

AS WITNESS my hand and Notarial Seal.

Notary Public
My commission expires:

TOWN OF BERLIN

WATER & SEWER ALLOCATION APPLICATION

The undersigned hereby makes application under the provisions of Ordinance 2009-02 Water and Sewer Allocation for the Town of Berlin. Fill in all applicable blanks.

APPLICANT DATA

Name: 9828 Seahawk Road, LLC

Mailing Address: 218 East Main Street

Salisbury, MD 21801

Telephone: 410-742-8151

Name of Agent/Engineer: _____ Phone: _____

PROPERTY DATA

Project Name: Ocean's East

Street Address: 9828 Seahawk Road Town: Berlin

Tax Map: 25 Parcel: 91 Lot: _____ Other: _____

Acreage: 20.70 Zoning: R-4 Account No. _____

Current Master Water and Sewerage Plan Designation: W- _____ S- _____

Existing Use: Land

Existing Allocation: sewer: 135 EDU's or 33,750 GPD water: 135 EDU's or 33,750 GPD

Zoning: R-4

PROJECT DATA

Description: 9828 Seahawk Road, LLC

Berlin, MD

Buildings 2 & 7 - 48 Units

Application is for: sewerage: 48 water: 48

Total EDU's Required: Forty-eight (48) or 12,000 GPD

Amount Due: \$ 800,928

Balance Due: \$ 800,928

**** (Balance of EDU charge must be paid in full prior to the issuance of a Building Permit for structures that are being built.)**