

FEBRUARY 23, 2009

BI-MONTHLY MEETING OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF BERLIN, CAMDEN COUNTY, NEW JERSEY, WAS HELD IN THE CONFERENCE ROOM OF THE SCHOOL BOARD ADMINISTRATIVE BUILDING, 225 GROVE AVENUE, WEST BERLIN, NEW JERSEY ON MONDAY FEBRUARY 23, 2009 AT 6:30 P.M.

Mayor Magazzu opened the meeting and stated that pursuant to the requirements of the Open Public Meetings Law, notice of this meeting was advertised in the Record Breeze and posted on the bulletin board.

All in attendance joined in the Salute to the Flag.

ROLL CALL

Present- Councilman McIntosh, Councilman Morris,
Mayor Magazzu

Also Present- Donafaye Zoll, Solicitor Charles Reibel Jr. Engineer
Michael Laginestra, Zoning Officer, Michael McGee,
Director Public Works.

Absent- Councilman Batten, Council President DiGangi, Chief
of Police Michael Hayden, Lori Campisano, CFO

GOOD AND WELFARE #1

Motion by Councilman Morris, second by Councilman McIntosh to open the meeting to the public. Motion carried by voice vote, all present voting in the affirmative. Mayor Magazzu opened the meeting to the public for comments.

Chris Ferrera of Oaklyn New Jersey, coaches for South Jersey Baron's Soccer Club and is interested in the use of the soccer fields for game use purposes only. He asked Mayor and Council if they would consider lowering the fees to \$250.00 per day instead of \$250.00 per game. Chris also commented that the club would also donate seed and fertilizer towards the up keep of the fields.

Mayor Magazzu stated that the Park Ordinance was put in line with other towns Park Ordinances.

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Councilman Morris commented that the Township having no prior experiences with this Ordinance did the best that we could in coming up with the fees along with other Township Directors guidance and that it is a work in progress.

No other comments were to be heard.

Motion by Councilman Morris, Second by Councilman McIntosh to close the meeting to public. Motion carried by voice vote, all present voting in the affirmative. Mayor Magazzu closed the meeting to the public.

DEPARTMENTAL REPORTS

A. CHANGE ORDER(S) AND/OR VOUCHER(S)

None at this time.

B. ENGINEER'S REPORT

1. ECONOMIC STIMULUS PROGRAMS

a. Federal Economic Stimulus Program (KEI#179BT3641):

As requested by Congressman Andrews' office, we submitted the Summary Report to his office. The report requests the following funding:

- 1) Proposed Municipal Building - \$ 4,993,107.00
- 2) Street Improvements Program- \$ 1,670,835.00

It is my understanding that the Senate is discussing the elimination of the earmarks, which the Congress has included in the bill. If the provision for the earmarks are removed, I believe that the full authority for selecting the projects will be given to the State agencies.

We have also submitted a copy of the Summary Report to the representing State legislators for their, hopeful, assistance in securing funding.

b. Camden County Freeholders, Call for Stimulus Projects:

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The Freeholders and Camden County Improvement Authority have requested that County departments (and municipalities?) submit a list of projects, which they would present to the Federal and State legislators. Since the Township is discussing the matter with the Improvement Authority, I recommend that the Township submit the "Federal Stimulus Legislation Call for Projects" form to the Improvement Authority.

c. N.J.D.E.P. 2009 Economic Recovery Program (KEI# 179BT3641):

On January 22, 2009, we submitted the following projects to the N.J.D.E.P. for consideration for funding:

1) Truck and Vehicle Wash Facility	\$ 350,000.00
2) Stormwater Management Along Mt. Vernon	\$ 475,000.00
3) Tub Grinder	<u>\$ 250,000.00</u>
Total Amount Requested =	\$ 1,075,000.00

The deadline for the submission of the requests was January 31, 2009. The N.J.D.E.P. representative has informed us that they have redesignated the loan applications, which were submitted last Fall and before, to the Federal Stimulus funding. They have not taken any action on the requests, which were submitted by January 31, 2009.

The N.J.D.E.P. representative had noted that there has been some discussion for a second round of the allotment of funds, perhaps, in 2010.

The N.J.D.E.P. is offering a loan, at 0% to 1% interest rate. They, also, noted that there may be principal forgiveness or negative interest (new terminology for "grants") loans, through the program.

Since the legislation has not been passed on the Federal level, the N.J.D.E.P. is not sure of the conditions, which will be established for the program.

The N.J.D.E.P. is holding a work session on February 6, 2009, to discuss the program. We will be attending the meeting and will inform the Governing Body of the discussions.

2. SIDEWALK ALONG N.J.S.H. ROUTE 73, PHASE 1, N.J.D.O.T. FY 2008 FUNDING - \$150,000.00:

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We are preparing the construction documents and will be submitting them to the N.J.D.O.T. and the Pinelands Commission for their review, approval, and issuance of permits.

We will be walking the project with Mr. McGee to see if it is possible for the Public Works Department to perform some of the construction, under a Force Account, using the N.J.D.O.T. funding.

3. COUNTY ROADWAY SAFETY IMPROVEMENTS PROJECT:

The County will be holding a preconstruction meeting for the painting/repainting of crosswalks. The meeting will be held on February 9, 2009 at 9:00 a.m. at the Charles DePalma Public Works Complex. The intersections are along Haddon Avenue, Cross-Keys Road, Franklin Avenue, Zulker Avenue, and Hopewell Road.

4. OUTDOOR SEATING AT FILOMENA'S RESTAURANT:

As discussed at the last Council Meeting, I have researched our file, regarding the outdoor seating. It is my understanding that the owner is requesting the amendment to the liquor license to permit the serving of liquor within the outdoor seating area.

I reviewed our file to see if the existing outdoor seating was approved by the Planning Board. I could not find any documentation or recollect the approval by the Planning Board. I recommend that the matter be discussed with the Planning Board to see if they remember issuing any approval for the seating.

5. REQUEST FOR ACTION FOR PERFORMANCE GUARANTIES:

We have received copies of the requests for the release of the performance guaranty for Fellowship Baptist Church and reduction of the performance guaranty for Montebello. We will be visiting the sites and will submit our recommendation by the end of this week for the consideration by the Governing Body at the Council Meeting on February 10, 2009.

6. 2008 STREET IMPROVEMENT PROGRAM (KEI# 491BT0308)

DiMeglio Construction has completed the Punch List with the exception of one ponding area, which cannot be completed until the temperatures are suitable for the performance of corrective pavement work.

The Contractor has requested that the final voucher and change order be processed to close the contract. The Contractor has committed to completing the corrective pavement work under the Maintenance Bond. Should the Governing Body consider the Contractor's request we will

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process the Final Voucher and Change Order for approval at the Council Meeting of February 23, 2009.

7. IMPROVEMENTS TO VETERAN'S AVENUE- KRISANNA CONSTRUCTION:

We have forwarded the final payment voucher in the amount of \$38,000.00 to the New Jersey Department of Transportation for their review and approval.

8. SAFE ROUTES TO SCHOOLS (KEI# 492BT0408):

We have been informed that the application for the sidewalk along Katherine and Grove Avenues was not funded.

9. HADDON AVENUE STREETScape IMPROVEMENTS (KEI #430BT1104 & #431BT1104):

- a. Phase 2 – Franklin Avenue to Bate Avenue (N.J.D.O.T. Discretionary Fund- \$200,000.00) (KEI #431BT0105):

The Township has received the final reimbursement of funds from the New Jersey Department of Transportation. However, as discussed by Ms. Campisano there was a shortfall of \$3,180.00.

We have prepared and submitted a request to Assistant Commissioner Sharon Shinkle-Gardner, Government/Community Relations and Communications for her assistance in obtaining the \$3,180.00 reimbursement.

We will contact Ms. Shinkle-Gardner to determine the status.

- b. Future Phases – Jefferson Avenue to Franklin Avenue and Walker Avenue- Bate Avenue to Lucas Avenue (FY2004 Transportation Enhancement Program and FY2005 SAFETEA-LU) (KEI #29-430BT1104):

We have completed the amendments to the Construction Plans and Specifications and have resubmitted them to the Department, for authorization to schedule the receipt of bids. We have also provided Mayor Magazzu with copies of the manufacturer's information for the selection of the trash receptacle, bench, and bicycle rack for consideration.

We have contacted the Department to determine the status of the authorization to schedule the receipt of bids. Upon receipt we will advise the Governing Body, accordingly.

10. TRAFFIC SIGNAL AND GEOMETRIC IMPROVEMENTS AT THE INTERSECTION OF COOPER ROAD AND TAUNTON AVENUE (KEI # 393BT0203):

We anticipate that the Freeholders will be receiving bids, in the near future, for the construction of the project. The County has stated that they will perform the inspection services but the Township will be responsible for all traffic directors costs, which are performed by the Police Department.

11. **MULTI-YEAR CAPITAL IMPROVEMENTS PROGRAM:**

I have received Mr. McGee's comments and will finalize the Engineer's Recommendations Report for issuance to the Governing Body, Ms. Campisano and Mr. McGee for consideration for projects, in the future.

12. **N.J.D.O.T. MATTERS**

- a. Possible Improvements to the Intersections of N.J.S.H. Route 73 with D'Angelo Drive and Franklin Avenue:

At the last Council Meeting, the Governing Body had stated that the "draft" letter was acceptable. We have submitted the letter, requesting that the N.J.D.O.T. Commissioner reconsider the request for the traffic signal at the intersection of Route 73 and D'Angelo Drive. Once we receive the Commissioner's response, we will inform the Governing Body.

- b. Request to the N.J.D.O.T. for Payment of Additional Inspection Costs for the Sanitary Sewer Work Along N.J.S.H. Route 73:

We recently spoke to a representative from Commissioner Shinkle-Garner's office. She requested that we fax a copy of the correspondence, which we had previously submitted to other N.J.D.O.T. offices, to her office for review. They will review all correspondence and contact our office if they need any additional information in this regard.

- c. Maintenance Along N.J.S.H. Route 73 and the Constructed Wetlands/Stormwater Basin Along Walker Avenue:

No update to report at this time.

- d. Request for No U-Turn at Median Opening Along Route 73 at the Proposed Driveway for the Golden Corral Restaurant:

The applicant's traffic engineer anticipated that the N.J.D.O.T. would be completing the review of the application for the Highway Access Permit and the Township request for the shifting of the proposed driveway from the median opening. I have requested the status of this action from the N.J.D.O.T. representative.

13. DELAWARE VALLEY REGIONAL PLANNING COMMISSION (DVRPC) ROUTE 73 CORRIDOR STUDY:

I have emailed Mr. Ellis Kim of the Delaware Valley Regional Planning Commission a copy of the letter, which was sent to the N.J.D.O.T. Commissioner Dilts, requesting his reconsideration for the traffic signal at the intersection of Route 73 and D'Angelo Drive. I have requested his assistance and support for the requested traffic signal.

14. PRE-MITIGATION FLOOD CONTROL PROGRAM:

No update to report at this time.

15. CAMDEN COUNTY OPEN SPACE, ROUND 9 (KEI #487BT0208):

The application will be reconsidered, by the County, for Round 10, in 2009.

16. REQUEST FOR ADDITIONAL SANITARY SEWER ALLOCATION (KEI #467BT0407):

The C.C.M.U.A. Commissioners and the Governing Body have passed resolutions, authorizing the agreement for the conditional increase of 200,000 gallons per day of sanitary sewer allocation.

It is important that the Camden County Municipal Utilities Authority continue to request the amendment to the Wastewater Quality Management Plan to allow for the permanent increase in allocation. The current requests is for an additional 225,000 gpd.

In order for the sanitary sewer system to provide sewer for a full build-out condition, in and out of the Pinelands area, it will be necessary to request a further amendment to the plan.

If the Governing Body intends to request the extension of the sanitary sewer collection system to the non-sewered, Pinelands area, I recommend that the Township discuss the desire with the C.C.M.U.A., now.

17. BERLIN BOROUGH WATER ALLOCATION AND CONNECTIONS FOR NEW DEVELOPMENTS:

I recommend that the Governing Body consider sending correspondence to the Berlin Borough Governing Body, requesting their intended plan to address the current N.J.D.E.P. restriction. The restriction is affecting the development of the proposed West Berlin Promenade retail center and the Paparone single-family development.

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The N.J.D.E.P., no doubt, will affect future development within the Township. The Borough Engineer was hopeful that the matter could be resolved with the N.J.D.E.P. by the end of 2009.

18. WATER USE REGISTRATION FOR TOWNSHIP WELLS:

This matter is being handled by Mr. McGee.

19. CHANGES TO ZONING AND LAND USE ORDINANCES:

The Planning Board will be addressing the possible changes, during the work session meetings, which they will be holding throughout the year.

20. SUPREME COURT TO REVIEW RECREATION FEE DECISION:

The N.J. Supreme Court is expected to hear the appeal made by Egg Harbor and Jackson Townships on the decision of the Appellate Division's on open space and recreation fees on March 9, 2009. The Appellate Court had ruled that municipalities cannot require developers to set aside land for recreation areas and open space or require payment in lieu of said set-aside payment since the Municipal Land Use Law does not allow this requirement as part of any development approval.

21. TAX MAP REVISIONS:

No update to report at this time.

22. COUNCIL ON AFFORDABLE HOUSING, ROUND 3 RULES:

The Governor has stated that he is considering, due to the current economic conditions, freezing the 2.5 percent non-residential developers fee for 2009 and extending the submission date for the Fair Share Plan and Housing Element for the petitioning of C.O.A.H. certification.

23. C.D.B.G., YEAR 31 FUNDING:

We attended the mandatory meeting, which was held by the County C.D.B.G. Program on January 22, 2009. We attached a copy of the correspondence from Ms. Pugh, County Community Development, regarding the meeting.

The Governing Body must select a project, pass the resolution, prepare the project description form and submit documents to the County Community Development by March 20, 2009.

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The County representatives expect the funding amount to be similar to the last round, which is \$30,257.00. The announcement of the actual funding amount is anticipated to be made in March 2009.

I recommend that, if the Governing Body is considering the improvement of street(s) in the East Berlin section of the Township, the street(s) be submitted in the project description form.

24. PROPOSED MUNICIPAL BUILDING (KEI# 422BT0804):

We will assist the Township, in whatever capacity that is determined to be necessary.

25. CLEAN AND GREEN ENGERGY PROGRAMS:

I believe that the architects will be including clean and green energy supply and source options, when designing the new municipal building. Mr. McGee has also mentioned the use of possible solar and wind energy for the Public Works Complex and other municipal facilities.

The N.J. Bureau of Public Utilities is offering the Renewable Energy Incentive Program for on-site renewable energy projects, using solar, wind, and bio-power technologies. Applications for the program are being accepted, February 3, 2009, to April 30, 2009. The use of geo-thermal energy may be another source that the Governing Body may want to consider.

It is expected that the Federal Stimulus Program will also include funding for clean and green programs. I strongly recommend that the Governing Body consider these sources, when designing the municipal building.

SOLICITORS REPORT

1. Water Agreement with Berlin Borough
2. Increase Sewer Allocation Buildout
3. Vacation Portion Kelley Drive
4. Municipal Building Redevelopment
5. Verizon Peg Channel
6. C & M Auto Repair
7. Richard Winans V. Berlin Township Walt Shendock
8. Salahuddin Smart V. Police Officer
9. Nancy Anderson V. Berlin Township
10. Shehata Ibrahim V. Berlin Township
11. Smith V. Nelke V. Berlin Township
12. Tax Foreclosures
13. Park Use Ordinance

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PUBLIC WORKS DEPARTMENT

Mike McGee, Director of Public Works said that Pat Davis has decided to retire at the end of March.

FIRST READING ORDINANCE 2009-3 AMENDING CHAPTER 110 OF THE CODE OF THE TOWNSHIP OF BERLIN CAPTIONED "TOWING AND STORAGE FEES"

Motion by Councilman McIntosh, second by Councilman Morris to adopt Ordinance 2009-3 on first reading by title. Ordinance adopted by call of the roll, three members present voting in the affirmative.

RESOLUTION 2009-79 RESOLUTION REQUESTING THE ISSUANCE OF RAFFLE LICENCES

WHEREAS, Contact Community Helplines of 100 West Gate Drive, Cherry Hill, New Jersey has requested the issuances of license by the Township of Berlin for;

**On- Premises Draw Raffle (Chinese Auction)
50/50 Cash Raffle**

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Berlin that it hereby authorizes the issuances of licenses to the Contact Community Helplines of 100 West Gate Drive, Cherry Hill New Jersey for the Date of March 25, 2009

Motion by Councilman Morris, second by Councilman McIntosh to adopt Resolution 2009-79. Resolution adopted by call of the roll, three members present voting in the affirmative.

Resolution 2009-80 Payment of Bills February 23, 2009

WHEREAS, the Code of the Township of Berlin, Chapter 7-1 et seq., provides payment of claims after certification by the Treasurer and consideration by Mayor and Council.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Berlin that the following claims are hereby approved and the bills be paid.

TO	ACCOUNT	AMOUNT
Animal Emergency Service	Dog Trust	115.25
CC Animal Shelter	Dog Trust	440.00
Robert E DePersia	Municipal Public Defender	375.00
David F. Carlamere	Planning Board Esc #341	100.00

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	Planning Board Esc #345	95.00
KEI Associates	Planning Board Esc #304	2,507.5
	Planning Board Esc # 341	326.25
Meisenzahl Partners	water insp Fee	10,489.25
Ann S. Ragone	Stormwater insp Fee	3,439.62
	Stormwater Maint. Guarantee	6,008.54

CONFIRMING

Dr. Ruggiero	Dog Trust	300.00
Treasurer, State of NJ	Dog Trust	693.00
Surety Title	04-216-55-860-08041	50,000.00
Camden County Mayor Assoc	01-201-20-110-2105	330.00
Camden County Treasurer	01-208-55-020-3000	844,775.50
	01-209-55-020-3000	25,500.95
	01-208-55-020-3000	60,519.00
	01-211-55-020-3000	29,377.95
John M McGee	01-201-26-290-2105	38.31
Verizon	01-201-31-440-2076	2,347.11
NJ State Health	01-201-23-220-2092	12,285.47
	01-201-23-220-2092	40,624.43
Payroll, Current Fund	1/1/2009	67,572.26
Payroll, Sewer	1/1/2009	5,149.41
Payroll, Current Fund	1/8/2009	66,881.04
Payroll Sewer	1/8/2009	4,802.36
Payroll, Current Fund	1/15/2009	57,811.71
Payroll, Sewer	1/15/2009	4,802.34
Payroll, Current Fund	1/22/2009	58,916.20
Payroll, Sewer	1/22/2009	4,802.32
Payroll, Current Fund	1/29/2009	83,126.22
Payroll, Sewer	1/29/2009	4,802.37

Motion by Councilman Morris, second by Councilman McIntosh to adopt Resolution 2009-80. Resolution adopted by call of the roll, three members present voting in the affirmative.

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RESOLUTION 2009-81 TO AUTHORIZE THE SUBMISSION OF A REQUEST FOR LOCAL AID INFRASTRUCTURE (DISCRETIONARY) FUNDING FROM THE NEW JERSEY DEPARTMENT OF TRANSPORTATION COMMISSIONER

WHEREAS, the Governing Body for the Township of Berlin desires to submit a request to the New Jersey Department of Transportation Commissioner for FY2009 Local Aid Infrastructure (Discretionary) Funding for the following projects and amounts:

- 1) Katherine Avenue- N.J.S.H. Route 73 to the dead end
(SRTS funds were also requested for sidewalks, to the nearby elementary school, along this street, but not funded
= \$1,077,000.00
- 2) Mt. Vernon Avenue- Minck Avenue to Franklin Avenue
(Camden County Route No. 692) = \$ 234,400.00
- 3) Hazel Avenue- Chestnut Avenue to Cushman Avenue
= \$ 189,300.00
- 4) Magnolia Avenue- Chestnut Avenue to Cushman Avenue = \$ 170,135.00

NOW, THEREFORE BE IT RESOLVED, that the Mayor and Council of the Township of Berlin, County of Camden, State of New Jersey, authorizes the submission of the funding request; and

BE IT FURTHER RESOLVED, that the Mayor and Clerk hereby authorized to submit an electronic grant application, if determined necessary, to the New Jersey Department of Transportation on behalf of the Township of Berlin; and

BE IT FURTHER RESOLVED, that the Mayor and Clerk hereby authorized to sign the grant agreement on behalf of the Township of Berlin and that their signatures constitute acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

Motion by Councilman Mc Intosh, second by Councilman Morris to adopt Resolution 2009-81. Resolution adopted by call of the roll, three members present voting in the affirmative.

BUSINESS LICENSES

- a) **Berlin General Storage**, 399 Cooper Road, Public Storage Facility
Motion by Councilman Morris, second by Councilman McIntosh to approve new business license for Berlin General Storage. License approved by call of the roll, three members present voting in the affirmative.

APPROVAL OF MINUTES OF JANUARY 26, 2009

Motion by Councilman McIntosh, second by Councilman Morris to approve the minutes of January 26, 2009. Motion carried by voice vote, all present voting in the affirmative.

APPROVAL OF MINUTES OF FEBRUARY 9, 2009

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Motion by Councilman McIntosh, second by Councilman Morris to approve the minutes of February 9, 2009. Motion carried by voice vote, all present voting in the affirmative.

GOOD AND WELFARE #2

Motion by Councilman Morris, second by Councilman McIntosh to open the meeting to the public. Motion carried by voice vote, all present voting in the affirmative. Mayor Magazzu opened the meeting to the public for comments.

There were no comments were to be heard.

Motion by Councilman Morris, Second by Councilman McIntosh to close the meeting to public. Motion carried by voice vote, all present voting in the affirmative. Mayor Magazzu closed the meeting to the public.

ALL OTHER BUSINESS

Mayor Phyllis Magazzu stated that she wanted to look into the Senate Bill 597 on the regulation of Municipality on the placement of Clothing bin. Donafaye Zoll, Township Solicitor said she would look into it futher.

RESOLUTION 2009-82 CLOSED SESSION

BE IT RESOLVED by the Mayor and Council of the Township Of Berlin that the Mayor and Council are now going into closed session for personnel matters.

Motion by Councilman Mc Intosh, second by Councilman Morris to adopt Resolution 2009-82. Resolution adopted by call of the roll, three members present voting in the affirmative.

ADJOURNED

Motion by Councilman Morris, second by Councilman McIntosh to adjourn the meeting at 7:50 pm. Motion carried by voice vote, all members present voting in the affirmative.

Meeting adjourned 7:50 pm

Jamey Eggers Township Clerk