

FEBRUARY 9, 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 9, 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,  
Council President DiGangi, Mayor Magazzu

**Also Present-** Lori Campisano, CFO, Barry Chatzinoff; Solicitor  
Charles Riebel, Jr., Engineer;  
Michael Laginestra, Zoning Officer

**Absent-** Councilman Batten, Chief of Police Michael Hayden

**GOOD AND WELFARE #1**

Motion by Council President DiGangi, second by Councilman Morris 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 to be heard.

Motion by Councilman Morris, Second by Council President DiGangi 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:

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 \$ 250,000.00
- Total Amount Requested = \$ 1,075,000.00

FEBRUARY 9, 2009

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:**

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:**

FEBRUARY 9, 2009

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 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):

FEBRUARY 9, 2009

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:

FEBRUARY 9, 2009

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 Papparone single-family development.

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.

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 ENERGY PROGRAMS:**

FEBRUARY 9, 2009

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

### **PUBLIC WORKS DIRECTOR**

Mike McGee commented that on Friday he attended a seminar on Stormwater Regulations. The outcome was that the Township will be responsible for a large portion of work load without any funding to off set the cost.

### **ZONING AND MAINTENANCE OFFICER**

Mike Laginestra reported that US Mortgage has been officially been shut down, due to the fact that there business license had been denied.

### **ORDINANCE 2009-1 OF THE TOWNSHIP OF BERLIN AMENDING CHAPTER 85 OF THE CODE OF THE TOWNSHIP OF BERLIN CAPTIONED "PARKS AND RECREATION"**

FEBRUARY 9, 2009

**WHEREAS**, the Governing Body has had the opportunity to review the existing provisions of the Code of the Township of Berlin and determined that same requires amendment so as to update and include certain provisions therein.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Township Council of the Township of Berlin as follows:

**SECTION 1:** The current Chapter 85, entitled "Parks and Recreation", is hereby repealed in its entirety and replaced with the following new Chapter 85

## **Chapter 85**

### **PARKS AND RECREATION**

#### **ARTICLE I General Provisions**

##### **§85-1. Public use and availability.**

- A. With the exception of unusual and unforeseen emergencies, parks shall be open to the public every day of the year during the following designated hours:
  - (1) May 1<sup>st</sup> through September 30<sup>th</sup>, from 8:00 a.m. to 9:00 p.m.;
  - and
  - (2) October 1<sup>st</sup> through April 30<sup>th</sup>, from 8:00 a.m. to 8:00 p.m.
- B. Any section or part of any park or recreation area may be declared closed to the public at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise), and either entirely or for certain uses only.
- C. No person shall, on the grounds of race, color, national origin, religion, age, sex or handicap be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any park facility, program or activity.

##### **§85-2. Agreements with Board of Education.**

The Mayor and Council of the Township of Berlin reserves the right with respect to any or all of the public park and recreation areas, and any facilities located therein, to enter into any agreement with the Board of Education of Berlin Township concerning the control and use thereof, and, anything contained in this chapter to the contrary notwithstanding, any use of said premises or said facilities by the Board of Education pursuant to any agreement with the Mayor and Council, Township of Berlin,

heretofore or hereafter entered into shall be free and exclusive from any control or supervision of or by the Mayor and Council, Township of Berlin.

**§85-3. Prohibited activities.**

- A. It shall be unlawful for any person in a public park or recreation area to:
- (1) Willfully mark, deface, disfigure, injure, tamper with or displace or remove any buildings, bridges, tables, benches, fireplaces, railing, paving materials, waterlines or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.
  - (2) Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person above the age of seven (7) years shall use the rest rooms and washroom designated for the opposite sex.
  - (3) Dig or remove any soil, rock, sand, stones, trees, shrubs or plants or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.
  - (4) Construct or erect any building or structure of whatever kind, whether permanent or temporary, or run or string any public service utility into, upon or across such lands, except on special written permit issued hereunder.
  - (5) Damage, cut, carve, transplant or remove any tree or plant, or injure the bark or pick flowers or seed of any trees or plant, or dig in or other wise disturb grass areas or in any other way injure the natural beauty or usefulness of any area.
  - (6) Climb any tree, or walk, stand or sit upon monuments, vases, planters, fountains, railings, fences or upon any other property not designated or customarily used for such purposes.
  - (7) Tie or hitch an animal to any tree or plant.
  - (8) Hunt, molest, harm, frighten, wound, kill, trap, pursue, chase, tease, shoot or throw missiles at any animal, wildlife, reptile or bird, or remove or have in his possession the young of any reptile or bird. Excepted from this provision are snakes known to be fatally poisonous or deadly reptiles, both of which may be killed on sight.

- (9) Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream or other body of water in or adjacent to any park or any tributary stream, storm sewer or drain flowing into water, any substance, matter or thing, liquid or solid.
- (10) Have brought in or dump in, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided. Where receptacles are not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.
- (11) Drive any vehicle on any area except the paved roads or parking areas or such areas as may on occasion be specifically designated as temporary areas.
- (12) Park a vehicle in other than an established or designated parking area. All parking shall be in accordance with posted directions at that location and/or at the instruction of any attendant who may be present.
- (13) Leave a vehicle standing or parked at night in established parking areas or elsewhere in the park or recreation area.
- (14) Leave a bicycle in a place other than a bicycle rack when such is provided and there is space available.
- (15) Ride a bicycle without reasonable regard for the safety of others.
- (16) Swim, bathe or wade in any waters or waterways in any park or recreation area, nor go onto any ice formed on any such water or waterway.
- (17) Leave a bicycle lying on the ground or pavement or set against trees or in any place or position where other persons may trip over or be injured by it.
- (18) Erect, maintain, use or occupy on or in any area any tent, shelter or structure of any kind unless there shall be an unobstructed view into said tent, shelter or structure from at least two sides, nor shall any guide wire, rope or extension brace or support be connected or fastened from any such structure to any other structure, stake, rock or other object outside thereof.

- (19) Allow his/her person to be so covered as to indecently expose his/her person.
  - (20) Dress or undress in any area or in any vehicle or other place, except in such structures as may be provided for that purpose.
  - (21) Carry or possess firearms of any description or air rifles, spring guns, bows and arrows, slings or any other forms of weapons potentially inimical to wildlife and dangerous to human safety, or any instrument that can be loaded with and fire blank cartridges, or any kind of trapping device. Shooting into park or recreation areas from beyond park boundaries is forbidden.
  - (22) Picnic or lunch in a place other than those designated for that purpose.
  - (23) Use any portion of the picnic area or any of the buildings or structures therein for the purpose of the holding of picnics to the exclusion of other persons, nor shall any person use such areas and facilities for any unreasonable period of time if the facilities are crowded.
  - (24) Leave a picnic area before all trash is placed in the disposal receptacle where provided. If no such trash receptacles are available, then trash shall be carried away from the park area by the picnicker, to be properly disposed of elsewhere.
  - (25) Take part in or abet the playing of any games involving thrown or otherwise propelled objects, such as balls, stones, arrows, javelins, horseshoes, quoits or model airplanes, except in those areas set apart for such forms of recreation.
- B. While in a public park or recreational area, all persons shall abide by all applicable Township Ordinances and State Statutes, and shall conduct themselves in a proper and orderly manner, and in particular no person shall:
- (1) Bring alcoholic beverages, drink it at any time nor be under the influence of intoxicating liquor or any other substance.
  - (2) Have in his possession or set or otherwise cause to explode or discharge or burn any firecrackers, torpedo rockets or other fireworks, firecrackers or explosives of flammable material, or discharge them or throw them into any such areas from lands or highways adjacent thereto. This prohibition includes any substance, compound, mixture or article that in conjunction with any other substance or compound would

FEBRUARY 9, 2009

be dangerous from any of the foregoing standpoints. At the discretion of the Berlin Township Council, permits may be given for conducting properly supervised fireworks, following state statutes and regulations, in designated park areas.

- (3) Appear at any place in other than proper clothing.
- (4) Solicit alms or contributions for any purpose, whether public or private.
- (5) Build or attempt to build a fire. No persons shall drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other flammable material within any park or on any highways, roads, or streets abutting or contiguous thereto.
- (6) Enter an area posted as "Closed to the Public," nor use or abet in the use of any area in violation of posted notices.
- (7) Gamble or participate in or abet any game of chance except in such areas and under such regulations as may be designated by the Board of Parks and Recreations Commission.
- (8) Sleep or protractedly lounge on the seats or benches or other areas, or engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior tending to breach the public peace.
- (9) Disturb or interfere unreasonably with any person or party occupying any area or participating in any activity under the authority of a permit.
- (10) Paste, glue, tack, or otherwise post any sign, placard, advertisement or inscription whatsoever, nor erect or cause to be erected any sign whatsoever on any public lands or highways or roads adjacent to a park.
- (11) Be responsible for the entry of a dog or other domestic animal into areas clearly marked by Township signs bearing the words "Domestic Animals Prohibited in this Area". Nothing herein shall be construed as permitting the running of dogs at large. All dogs in those areas where such animals are permitted shall be restrained at all times on adequate leashes not greater than six feet in length.
- (12) Expose or offer for sale any article or thing, nor station or place any stand, cart, or vehicle for the transportation, sale, or display of any such article or thing. Exception is hereby made as to any regularly licensed concessionaire or other party holding a permit

and acting by and under the authority and regulation of the Mayor and Council of the Township.

- (13) Upon request fail to produce and exhibit any permit from the Township of Berlin which the person or organization claims to have obtained, for review by any person authorized to enforce the provisions of this Chapter.
- (14) Smoke or use tobacco-related products, and/or discard of those products, in an area designated as "tobacco free" and/or beyond any point which is otherwise marked as "no smoking beyond this point" or similar language, or within 50 feet of any park and/or recreation area owned, leased or utilized by the Township of Berlin.
- (15) Violate the Code of Conduct of the Berlin Township Athletic Association or any other organization sponsoring the event.
- (16) Ignore or refuse to comply with any warning, suspension, removal or disbarment from the event, park or recreation areas, which warning, suspension, removal or disbarment results from a violation of the provisions of this Chapter, or the Code of Conduct of the Berlin Township Athletic Association or the Code of Conduct of any other organization sponsoring the event.

## ARTICLE II

### Permits for Organizations and Special Events

#### §85-4. Application procedures.

- A. All organizations or groups desiring to utilize the Township's parks or playgrounds shall be required to obtain a permit from the Township. The permit shall designate the group or organization authorized and permitted to use the field or fields as well as the dates and times on which the use is permitted. Permit applications shall be obtained from the Township Clerk and processed in the following manner:
  - (1) Applications shall be returned to the Township Clerk for processing. All applications must be completed at least thirty (30) days prior to the desired date of use of the park or recreation area. The Township Clerk shall review the application for completeness. Incomplete applications shall not be considered. The application shall be reviewed and either approved or denied by the Clerk, Township Mayor and the Director of Public Works.
  - (2) The application shall contain the following information:

- (a) The name and address of the applicant.
- (b) The name and address of the person, persons, corporation or association sponsoring the activity, if any.
- (c) The date, day and hours for which the permit is desired.
- (d) The park or portion thereof for which such permit is desired.
- (e) The estimated number of participants and/or spectators expected to attend.
- (f) Any other information which the Berlin Township Council shall find necessary to make a fair determination as to whether a permit should be issued hereunder.

**§85-5. Standards for issuance.**

- A. Standards for issuance of a use permit by the Township Council shall include the following findings:
  - (1) That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park.
  - (2) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.
  - (3) That the proposed activity or uses that are reasonably anticipated will not include violence, crime or disorderly conduct.
  - (4) That the proposed activity will not entail extraordinary or burdensome expense of police operation by the Township of Berlin.
  - (5) That the facilities desired have not been reserved for other use at the date and hour requested in the application.
  - (6) In the event of a scheduling conflict, first preference shall be given to township sponsored groups and township residents.
- B. Athletic events commonly referred to as "tournaments" require special review by the Chief of Police and the Public Works Director. Due to the nature of these types of events, careful consideration will be given to traffic and parking issues and to the possible impact on the park grounds. An additional tournament fee may be decided by the Governing Body.

- C. All applicants must submit, simultaneously with their application, proof of liability insurance in the minimum amount of \$1,000,000 covering the use of the park(s) or recreation area(s) to be used. The Township of Berlin must be named as an additional insured. Waiver of the insurance requirement may be applied for, depending upon the requested use. Determination of whether the waiver request will be granted is within the sole discretion of the Mayor and Council of the Township of Berlin.
- D. Applicants must also submit an Indemnity and Hold Harmless Agreement, to be provided by the Township Clerk, signed by an authorized person on behalf of the organization or group utilizing the park or recreation area.

**§85-6. Appeal procedure for permit denial.**

- A. The Township Clerk shall appraise an applicant in writing of the reason for denial of a permit, within seven (7) days of receipt of the completed application. Any aggrieved person shall have the right to appeal this determination by serving written notice requesting an appeal, upon the Township Clerk, within five days of said denial of the permit.
- B. The Township Clerk shall forward the application, notice of denial and reasons therefore, as well as the notice of appeal, to the Mayor and Council of the Township of Berlin. The Mayor and Council shall, within fourteen (14) days of receipt of these materials, schedule this matter for a hearing at which the applicant may provide testimony. The Mayor and Council shall consider the application and testimony pursuant to the standards set forth in §85-5 and sustain or overrule the decision of the Township Clerk. The decision of the Mayor and Council shall be final.

**§85-7. Fee Schedule.**

The Berlin Township Athletic Association is exempt from all fees for Association sponsored athletic activities. All other persons, groups or organizations shall be subject to the following fee schedule, which fees shall be paid prior to receipt of the permit:

- a. Ball Fields  
Per Game / Per ball field:
  - Without lights \$ 250.00
  - With lights \$ 350.00Security Deposit \$ 500.00
- b. Street Hockey/Basketball/Volleyball Courts
  - Without lights \$ 100.00
  - With lights \$ 200.00Security Deposit \$ 250.00

**Park areas for:**

- c. All other Recreational Activities
  - Daylight \$100.00
  - Security Deposit \$250.00
  
- Park Areas for:**
- d. Non-Recreational Activities – e.g. Flea Market, Car Show, Auction,
  - Daylight \$100.00
  - Security Deposit \$250.00
  
- e. Stage – e.g. Musical Shows, Theater acts, Concerts,
  - Set-up Fee \$100.00
  - Per hour fee \$125.00
  - Security Deposit \$1000.00
  
- f. Gazebo
  - Per hour fee \$ 50.00
  - Security Deposit \$ 250.00
  
- g. Concession Stand
  - Per hour fee \$ 150.00
  - Security Deposit \$ 1000.00
  
- h. Police Protection Prevailing overtime rate.

Need to be determined by the Chief of Police
  
- i. Public Works Assistance Prevailing overtime rate

Need to be determined by the Director of Public Works

**§85-8. Required inspections of parks and recreation areas.**

- A. The Director of Public Works or his designee shall, together with the applicant, inspect the facilities to be used by the permit holder on the last business day prior to that use, as well as after the use thereof. The Director of Public Works or his designee shall determine whether the permitted premises have been left in reasonably the same condition as existed prior to the use. In the event that is the case, the Director of

Public Works or his designee shall notify the Township Clerk and the security deposit will be returned forthwith.

- B. If the inspection by the Director of Public Works or his designee reveals damage and/or lack of clean up to the permitted premises, the Director of Public Works or his designee shall notify the Township Clerk who shall not release the security deposit. The Director of Public Works shall cause any necessary work to be done to return the permitted premises to its status before use. Thereafter, the Director of Public Works shall notify the Township Clerk as to the cost of the work based upon employees' hours of labor required to return the premises to the condition prior to the aforementioned use, times the hourly rate, plus 20%, and the cost of any materials used. The Township Clerk shall deduct that cost from the security deposit and return the balance to the permit holder. In the event there is not sufficient deposit to pay for the work, the permit holder shall be responsible for payment of any excess amount and shall not be permitted to receive any additional permits until payment is made. The Township may also pursue any legal remedies it may have in such a situation.

**§85-9. Permit regulations.**

Any group or organization receiving a permit shall be subject to the following regulations and shall be responsible for ensuring compliance by all persons using the area or attending the event pursuant to the issued permit:

- A. The permit shall not be transferred or assigned. The permit holder or designated representative must be present whenever the field is in use during the authorized periods.
- B. No alcoholic beverages are permitted at any time by any person during the use of the fields, including the team players and spectators. The permit holder shall be responsible for enforcing this condition.
- C. The permit holder shall be responsible for any and all illegal acts by spectators and team members, including the opposing team.
- D. The permit holder shall be responsible for ensuring that team members and spectators adhere to no-parking regulations at and near the field in use.
- E. No change in use is authorized after a permit is issued.
- F. All park rules and regulations and all applicable Township ordinances shall bind a permittee and all of their agents, employees, and invitees as fully as though the same were inserted in the permit.

- G. The person or persons to whom the permit is issued shall be liable for all loss; damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall have been issued.

**§85-10. Revocation of Permit**

The Berlin Township Council shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance or upon good cause shown. In case of emergency, public health or public safety concerns, the Berlin Township Police are authorized to revoke a permit. The Police Department will provide Mayor and Council with a written report outlining the reasons for the revocation.

**§85-11. Refund of fees.**

All fees for permits are non-refundable once the permit is approved, regardless of whether the event is canceled or for any other reason, including but not limited to revocation of the permit for any reason.

**ARTICLE III**

**Enforcement; Violations and Penalties**

**§85-12. Powers and duties of authorities.**

- A. The Berlin Township Council shall, in connection with their duties imposed by law, diligently enforce the provisions of this Chapter.
- B. This Chapter shall also be enforced by the Police Department of the Township of Berlin.
- C. The Berlin Township Council and/or the Police Department of the Township of Berlin shall have the authority to eject from the park or recreational areas any person or persons acting in violation of this Chapter, and shall have the further authority to seize and confiscate any property, thing or device in the park or athletic field used in violation of this Chapter.

**§85-13. Penalties.**

- A. Any person age 18 or older shall, upon conviction of violating §85-3(B)(14) of this Chapter, be subject to a minimum fine of \$100 with the maximum not to exceed \$500 or sentenced to community service within the Township of Berlin, at the discretion of the Municipal Court, plus court costs.
- B. Any person under the age of 18 shall, upon conviction of violating §85-3(B)(14) of this Chapter, be required to perform community service or

attend an educational program, subject to the discretion of the Juvenile Court or other juvenile authorities, plus court costs.

- C. Any person violating any of the other provisions of this Chapter or any rule or regulation promulgated pursuant hereto shall, upon conviction, be subject to the replacement, repair or restoration of any damaged park property and shall be subject to a fine not exceeding \$1,000.00, and in default of payment thereof, may be sentenced to imprisonment in the county jail, in the discretion of the Judge, for a term not exceeding 90 days.

**SECTION 3:** Any ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed to the extent of the inconsistency.

**SECTION 4:** If any section, paragraph, clause or provision of this ordinance shall be adjudicated invalid, such adjudication shall apply only to the section, paragraph, clause or provision so adjudicated and the remainder of the ordinance shall be deemed valid and effective.

**SECTION 5:** This Ordinance shall take effect upon final passage and publication pursuant to law.

Motion by Council President DiGangi, second by Councilman Morris to open the meeting to the public. Motion carried by voice vote, all present voting in favor. Mayor Magazzu opened the meeting to the public for questions or comments on Ordinance 2009-1. There were no request to be heard. Motion by Councilman Morris, second by Council President DiGangi to close the meeting to the public. Motion carried by voice vote, all present voting in favor. Motion by President DiGangi, second by Councilman Morris to adopt Ordinance 2009-1. Ordinance adopted by call of the roll, four members present voting in the affirmative.

**FIRST READING BOND ORDINANCE 2009-2 AUTHORIZING THE ACQUISITION OF CERTAIN REAL PROPERTY AND EXISTING FACILITIES, TOGETHER WITH THE COMPLETION OF VARIOUS RENOVATIONS AND IMPROVEMENTS AT SAID SITE AND FACILITIES FOR USE BY THE TOWNSHIP OF BERLIN AS A MUNICIPAL BUILDING APPROPRIATING THE SUM OF 7,950,000 THEREFOR; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OR BONDS ANTICIPATION NOTES OF THE TOWNSHIP OF BERLIN, COUNTY OF CAMDEN, NEW JERSEY IN IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO 7,950,000; MAKING CERTAIN DETERMINATIONS AND COVENANTS: AND AUTHORIZING CERTAIN RELATED ACTIONS IN CONNECTION WITH THE FOREGOING.**

Motion by Councilman McIntosh, second by Council President DiGangi to adopt Bond Ordinance 2009-2 on first reading by title. Ordinance adopted by call of the roll, four members present voting in the affirmative.

**RESOLUTION 2009-66 RESOLUTION TO GRANT THE RELEASE OF ESCROW FOR PEP BOYS.**

**WHEREAS**, PEP BOYS has requested the release of the escrow for Route 73 South; and

**WHEREAS**, the Engineer has recommended that the Township grant the request for the release of the escrow balance of \$ 10,370.50 be released contingent upon all outstanding bills have been submitted and paid.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of Berlin that the request for the release of the escrow for PEP BOYS is hereby granted.

Motion by Council President DiGangi, second by Councilman McIntosh to adopt Resolution 2009-66. Resolution adopted by call of the roll, four members present voting in the affirmative.

**RESOLUTION 2009-67 AUTHORIZING MAYOR TO EXECUTE AGREEMENT WITH THE COUNTY OF CAMDEN FOR A RECYCLING TONNAGE REBATE**

**WHEREAS**, the County of Camden has proposed an Interlocal Services Agreement for a Recycling Rebate; and

**WHEREAS**, the Governing Body determined that the agreement and rebate would be useful to the Township; and

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Governing Body of the Township of Berlin, County of Camden and State of New Jersey, that the Mayor is hereby authorized to execute the attached Agreement on behalf of the Township of Berlin.

Motion by Council President DiGangi, second by Councilman Morris to adopt Resolution 2009-67. Resolution adopted by call of the roll, four members present voting in the affirmative.

**RESOLUTION 2009-68 RESOLUTION TO GRANT THE RELEASE OF ESCROW FOR CHERRY PLAZA SHOPPING CENTER.**

**WHEREAS**, CHERRY PLAZA, Gulli/Parkin Partnership, block 1301 lot 2, Route 73 North has requested the release of escrow and

**WHEREAS**, the Engineer has recommended that the Township grant the request for the release of the escrow balance of \$6300.58 be released contingent upon all outstanding bills have been submitted and paid.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of Berlin that the request for the release of the escrow for CHERRY PLAZA, Gulli/Parkin Partnership is hereby granted.

Motion by Councilman McIntosh, second by Councilman Morris to adopt Resolution 2009-68. Resolution adopted by call of the roll, four members present voting in the affirmative.

FEBRUARY 9, 2009

**RESOLUTION 2009-69 RESOLUTION AUTHORIZING EXTENSION OF CONTRACT FOR THE PURCHASES OF OFFICE SUPPLIES WITH OFFICE BASICS AS PART OF THE CAMDEN COUNTY COOPERATIVE PRICING SYSTEM**

**WHEREAS**, by resolution adopted on March 27, 2006, the Mayor and Council of the Township of Berlin agreed to take part in the Camden County Cooperative Pricing System and award a contract to Office Basics at a cost of 74 % off catalog prices specified in County Bid A-57 , for a term of two years; and

**WHEREAS**, the bid provided for a two one year options, said options to be utilized at the sole discretion of the County; and

**WHEREAS**, because the Camden County Board of Chosen Freeholders agreed to exercise the second of two one year options for a term commencing February 1, 2009 through January 31, 2010, the Township of Berlin agrees as well; and

**WHEREAS**, funding for this purpose shall not exceed the maximum line items for office supplies in each department line item in the Township's Emergency Temporary and SFY 2009 and/or 2010 temporary and/or permanent budgets and shall be encumbered in accordance with N.J.A.C. 5:30-5.3(b)(2); and

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of Berlin that department heads are hereby authorized to continue purchasing office supplies pursuant to Camden County Bid A-57 from February 1, 2009 through January 31, 2010.

Motion by Councilman Morris, second by Council President DiGangi to adopt Resolution 2009-69. Resolution adopted by call of the roll, four members present voting in the affirmative.

**RESOLUTION 2009-70 REQUEST FOR REDUCTION OF PERFORMANCE GUARANTEE BOND FOR MONTEBELLO, SECTIONS 3, RECREATION AREA AND CLUBHOUSE**

**WHEREAS**, Hovbros Berlin, L.L.C., 900 Birchfield Drive, Mount Laurel, New Jersey, has requested, on behalf of Montebello, Sections 3, Recreation Area and Clubhouse, a bond reduction, and

**WHEREAS**, the Engineer has recommended that the Township grant the following bond reduction:

**Bond No. SU1001780 Section 3, Recreation Area and Clubhouse:  
Original Bond Amount of \$2,740,466.40 be reduced to \$1,692,614.40**

FEBRUARY 9, 2009

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Township of Berlin, Camden County, New Jersey, that the above Performance Guarantee Bond for Hovbros Berlin, LLC, (Montebello) be reduced as stated above.

Motion by Council President DiGangi, second by Councilman Morris to adopt Resolution 2009-70. Resolution adopted by call of the roll, four members present voting in the affirmative.

**TOWNSHIP OF BERLIN, NEW JERSEY**

**RESOLUTION 2009-71**

---

**RESOLUTION 2009-71 OF THE TOWNSHIP  
COUNCIL OF THE TOWNSHIP OF BERLIN,  
COUNTY OF CAMDEN, NEW JERSEY  
AUTHORIZING THE PREPARATION AND  
SUBMISSION OF AN APPLICATION TO THE  
LOCAL FINANCE BOARD PURSUANT TO N.J.S.A.  
40A:2-11(c) et. seq.**

---

**BACKGROUND**

**WHEREAS**, the Township of Berlin, County of Camden, New Jersey ("Township"), desires to make application to the New Jersey Local Finance Board seeking its approval for the for a waiver of down payment pursuant to N.J.S.A. 40A:2-11(c) with respect to the adoption of a bond ordinance in the amount of \$7,950,000; and

**WHEREAS**, the Township believes:

- (a) it is in the public interest to accomplish such purpose;
- (b) said purpose or improvements are for health, welfare, convenience or betterment of the inhabitants of the Township;
- (c) the amounts to be expended for said purpose or improvements are not unreasonable or exorbitant; and
- (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Township and will not create an undue financial burden to be placed upon the Township.

FEBRUARY 9, 2009

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF BERLIN, COUNTY OF CAMDEN, NEW JERSEY, AS FOLLOWS:**

**Section 1.** The application to the Local Finance Board is hereby approved, and the Township's Bond Counsel, Solicitor and Auditor, along with other representatives of the Township, are hereby authorized to prepare such application and to represent the Township in matters pertaining thereto.

**Section 2.** A copy of this resolution shall be prepared and filed with the Local Finance Board as part of such application.

**Section 3.** The Local Finance Board is hereby respectfully requested to consider such application and to record its findings, recommendations and/or approvals as provided by the applicable New Jersey law.

Motion by Council President DiGangi, second by Councilman Morris to adopt Resolution 2009-71. Resolution adopted by call of the roll, four members present voting in the affirmative.

Recorded Vote

<u>AYE</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
T. Digangi			
J. McIntosh			
C. Morris			
P. Magazzu			
			J. Batten

The foregoing is a true copy of a resolution adopted by the Township Council of the Township of Berlin, County of Camden, New Jersey on February 9, 2009.

**RESOLUTION 2009-72 RESOLUTION TO AMEND EMERGENCY TEMPORARY CAPITAL BUDGET.**

**WHEREAS**, the Mayor and Members of the Township Council of the Township of Berlin, County of Camden desires to constitute a SFY 2009 Temporary Capital Budget of said municipality by inserting therein

**Acquisition of Real Property and Existing Facilities and Completion of Various Renovations and Improvements for the Use By the Township as a Municipal Building**

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Township Council of the Township of Berlin, County of Camden as follows:

FEBRUARY 9, 2009

Section 1.

SFY 2009 Temporary Capital Budget of the Township of Berlin is hereby constituted by the adoption of a schedule to read as follows:

Acquisition of real Property and Existing Facilities and Completion of Various Renovations and Improvements for the Use by the Township as a Municipal Building

\$7,950,00.00

Section 2.

The Clerk be and is authorized and directed to file a certified copy of this resolution with the Division of Local Government Services, Department of Community Affairs, State of New Jersey, within three days after adoption of this project for SFY 2009 Temporary Capital Budget, to be included in the SFY 2009 Permanent Capital Budget as adopted.

Motion by Council President DiGangi, second by Councilman Morris to adopt Resolution 2009-72. Resolution adopted by call of the roll, four members present voting in the affirmative.

**RESOLUTION 2009-73 AUTHORIZING MAYOR AND THE GOVERNING BODY TO APPROVE THE REVISED FORM OF THE CONTRACT OF SALE FOR THE GORDON'S FURNITURE BUILDING.**

**WHEREAS**, the Governing Body adopted on January 26, 2009, a Resolution authorizing the Mayor to execute on behalf of the Township a Contract of Sale for the purchase of property located at 135-145 Rt. 73 South, referred to as the "Gordon's Furniture Building", which Contract was signed by the Mayor; and

**WHEREAS**, additional negotiations with the Seller have taken place, necessitating certain changes to the previously approved form of Contract; and

**WHEREAS**, the Governing Body has determined that it is appropriate to agree to certain changes, which amend the following items:

A. Responsibility for payment of the environmental review of the premises, to provide that the Township will pay up to \$2,400 for this cost;

B. Although it is believed this transaction is exempt from payment of any realty transfer fee of the State of New Jersey, as well as from any supplemental tax known as the "mansion tax", the Township will be responsible for payment of any "mansion tax"/supplemental realty transfer tax, if such be levied, while the Seller shall be responsible for payment of any initial realty transfer fee; and

C. Seller has utilized a Broker in this transaction, and Seller shall be solely responsible for payment of any commissions or fees due to the Broker.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Township of Berlin, that the Mayor and Governing Body approve the form of the Contract of Sale with the revisions noted above, and the Mayor is hereby authorized to sign the revised Contract for purchase of the aforementioned premises.

FEBRUARY 9, 2009

Motion by Council President DiGangi, second by Councilman McIntosh to adopt Resolution 2009-73. Resolution adopted by call of the roll, four members present voting in the affirmative.

**Resolution 2009-74**  
**LIST OF UNCOLLECTIBLE TAXES**

To the Mayor and Council to the Township of Berlin:

I hereby submit to you a list of taxes, which in my opinion are uncollectible. I give the reasons why I deem them uncollectible, and I request that same be remitted and that I be relieved of the collection thereof as required by Revised Statutes of New Jersey, 1937, Title 54, Chapter 4.

Dated February 6, 2009

Diane Zoppel, CTC- Tax Collector

NAME	YEAR	DESCRIPTION	AMOUNT	REASON
Vito Gentile	2008	1309-18	250.00	Veteran
Tyrone Furlow	2009	1413-4	250.00	Veteran
			\$ 500.00	Total May 2009

Motion by Council President DiGangi, second by Councilman McIntosh to adopt Resolution 2009-74. Resolution adopted by call of the roll, four members present voting in the affirmative.

**RESOLUTION 2009-75 RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT WITH IKON OFFICE SOLUTIONS FOR LEASING A DIGITAL COPIER MACHINE FOR THE LIBRARY IN ACCORDANCE WITH STATE CONTRACT**

**WHEREAS**, The State of New Jersey, Division of Purchasing, has awarded a contract to Ikon Office Solutions for leasing of a digital copier machine; and  
**WHEREAS**, the Township of Berlin wishes to lease a digital copier machine for the Library in accordance with the State Contract 64039 awarded to Ikon Office Solutions for a price of \$79.10 per month for 48 months as permitted by N.J.S.A. 40A:11-15; and  
**WHEREAS**, funds are available as set forth on the attached Certification from the Township Chief Financial Officer; and  
**WHEREAS**. In accordance with N.J.S.A. 40A:11-15 the lease agreement contains a clause making it subject to the availability and appropriation made annually of sufficient funds as required to meet the extended obligations as well as an annual cancellation clause; and

FEBRUARY 9, 2009

**BE IT RESOLVED**, by the Mayor and Council of the Township of Berlin that the Mayor be and is hereby authorized to sign the lease agreement with Ikon Office Solutions in accordance with State Contract 64039 for \$79.10 per month for 48 months.

Motion by Councilman Morris, second by Councilman McIntosh to adopt Resolution 2009-75. Resolution adopted by call of the roll, four members present voting in the affirmative.

**RESOLUTION 2009-76 RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT WITH IKON OFFICE SOLUTIONS FOR LEASING A DIGITAL COPIER MACHINE FOR THE MUNICIPAL COURT OFFICE IN ACCORDANCE WITH STATE CONTRACT**

**WHEREAS**, The State of New Jersey, Division of Purchasing, has awarded a contract to Ikon Office Solutions for leasing of a digital copier machine; and

**WHEREAS**, the Township of Berlin wishes to lease a digital copier machine for the Municipal Court Office in accordance with the State Contract 64039 awarded to Ikon Office Solutions for a price of \$79.10 per month for 48 months as permitted by N.J.S.A. 40A:11-15; and

**WHEREAS**, funds are available as set forth on the attached Certification from the Township Chief Financial Officer; and

**WHEREAS**. In accordance with N.J.S.A. 40A:11-15 the lease agreement contains a clause making it subject to the availability and appropriation made annually of sufficient funds as required to meet the extended obligations as well as an annual cancellation clause; and

**BE IT RESOLVED**, by the Mayor and Council of the Township of Berlin that the Mayor be and is hereby authorized to sign the lease agreement with Ikon Office Solutions in accordance with State Contract 64039 for \$79.10 per month for 48 months.

Motion by Councilman Morris, second by Council President DiGangi to adopt Resolution 2009-76. Resolution adopted by call of the roll, four members present voting in the affirmative.

**RESOLUTION 2009-77 RESOLUTION FOR APPLICATION FOR PROGRAM YEAR 31 (2009-2010) FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS**

**WHEREAS**, the Township of Berlin is entitled to Community Development Block Grant Funding; and

**WHEREAS**, the Mayor and Council have chosen to submit an application for Program Year 31 (2009-2010); and

**WHEREAS**, the grant allocation for 2009-2010 for the Township of Berlin is \$30,257.00 or as amended by the Community Development Block Grant Program; and

**WHEREAS**, the Governing Body has agreed to apply for funding for the following activity:

- **Lease/Purchase of a Senior Citizens Bus**

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of Berlin, that the Mayor is hereby authorized to sign the Project Description Form for Program Year 31 (2009-2010).

Motion by Council President DiGangi, second by Councilman McIntosh to adopt Resolution 2009-77. Resolution adopted by call of the roll, four members present voting in the affirmative.

**RESOLUTION 2009-78 ACCEPTING THE FLOW FROM THE MONTEBELLO SANITARY SEWER PUMPING STATION**

**WHEREAS**, Hovbros Berlin, the developer of the age-restricted residential development known as Montebello, has requested that the Governing Body for the Township of Berlin consider accepting the pumping station and the sanitary sewer flow, which is conveyed from this pumping station; and

**WHEREAS**, Hovbros Berlin has constructed several homes within the Montebello development and has obtained sanitary sewer connection permits for said homes. Hovbros is currently collecting the sanitary sewerage, which is generated from the occupied homes, removing it from the system and dispensing it at a lawful facility, outside of Berlin Township. The owners of the homes are also paying the annual sewer rent for the constructed homes; and

**WHEREAS**, the Township Sewer Operator and Township Engineer have recommended that the Governing Body not accept the ownership, operation, and responsibility of the Montebello pumping station until there is a flow, which has been determined to be adequate by the Sewer Operator and Engineer, conveyed to the pumping station to allow for the proper operation of the facility; and

**WHEREAS**, in order to generate an adequate flow to the pumping station, it is recommended that Hovbros allow the Dynasil facility , Berlin General Storage facility and any other facility to connect into the Montebello sanitary sewer collection system, which is still owned by the developer.

**NOW, THEREFORE BE IT RESOLVED**, by Mayor and Council of the Township Berlin, County of Camden, State of New Jersey that, the developer of the Montebello age-restricted development be permitted to discharge the sewerage, collected from the Montebello residential development and any other sources, which are approved for discharge to the pumping station by the Township, to the Berlin Township sanitary

FEBRUARY 9, 2009

sewer collection system, as long as the discharge and sewerage complies with the governing State, County, and Township regulations; and

**BE IT FURTHER RESOLVED**, that the Township is not accepting ownership, operation, responsibility maintenance, and/or costs associated with the pumping station, collection systems, force main, or any other components of the sanitary sewer system for the Montebello development, at this time, and;

**BE IT FURTHER RESOLVED**, that the developer shall perform all necessary pretreatment to the sewerage, prior to the discharge to the Township sewer collection system to provide a quality, which complies with the governing regulations and is acceptable to the Township. The developer shall be responsible for the ownership, operation, maintenance, and all costs associated with the sanitary sewer system.

Motion by Council President DiGangi, second by Councilman McIntosh to adopt Resolution 2009-78. Resolution adopted by call of the roll, four members present voting in the affirmative.

#### **Approval of Business Licenses**

- a) **Midatlantic Ortho**, Anthony Prusich, 1008 Industrial Drive, Suite D, Orthodontic and Dental Distributor. Motion by Council President DiGangi, second by Councilman Morris to approve business license for Midatlantic Ortho. License approved by call of the roll, four members present voting in the affirmative.
- b) **Harrison Imports Exports**, Daniel P. Harrison, 410 Bloomfield Drive, Wholesale Distributor of Drapery and Fabrics. Motion by Council President DiGangi, second by Councilman McIntosh to approve business license for Harrison Imports Exports. License approved by call of the roll, four members present voting in the affirmative.
- c) **Flooring Associates**, Ronald R. Raeuber, 288 Pine Edge Drive, small commercial flooring company utilizing for office and warehouse space. Motion by Council President DiGangi, second by Councilman McIntosh to approve business license for Flooring Associates. License approved by call of the roll, four members present voting in the affirmative.

#### **CONSENT AGENDA**

Motion by Councilman Morris, second by Councilman McIntosh to receive and file the monthly reports on the consent agenda. Motion carried by voice vote, all present voting in the affirmative.

#### **APPROVAL OF CORRESPONDENCE CALENDAR FOR JANUARY 2009**

FEBRUARY 9, 2009

Motion by Council President, second by Councilman McIntosh to receive and file the correspondence calendar for January 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.

Joe McShea of Mt Vernon Avenue spoke about the Sahara Sam's Water Park and asked if the tubes are going to stay in front of the building. Mayor and Council replied that the tubes would be permanent, but the plans for the front of the building would be nicely decorated with palm trees.

There were no more comments to be heard

Motion by Council President DiGangi, Second by Councilman Morris 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.

**ADJOURN**

Motion by Council President DiGangi, second by Councilman McIntosh to adjourn the meeting at 7:45 p.m. Motion carried by voice vote, all members present voting in the affirmative.

Meeting adjourned at 7:45 p.m.

---

Jamey Eggers Township Clerk