

MARCH 24, 2014

**BI-MONTHLY MEETING OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF BERLIN, CAMDEN COUNTY, NEW JERSEY AT BERLIN TOWNSHIP MUNICIPAL HALL MARCH 24, 2014 AT 5:00 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 Courier Post, Record Breeze and posted on the bulletin board.

All in attendance joined in the Salute to the Flag.

**ROLL CALL**

**Present-** Council President Morris, Councilman Epifanio, Councilman McIntosh, Councilwoman Bodanza, Mayor Magazzu

**Also Present-** Solicitor, Stuart Platt, CFO, Lori Campisano, Lenny Check, Chief of Police, Josh Shellenberger, Maintenance/Animal Control, Chuck Riebel Engineer/ Public Works Director.

**Absent-**

**Proclamation MS**

**Departmental Reports**

**Engineer/Public Works Report**

Chuck Riebel reported that Edgewood Avenue has been paved and that the New Jersey D.O.T is now accepting application for the Safe Route to School. Chuck recommended that the Township apply.

**Solicitors Report**

Stuart Platt, Township Solicitor talked about the two Ordinances that are up for public hearing and adoption.

**MARCH 24, 2014**

Solicitor commented he has looked into the water issues and the agreement between Berlin Borough and Berlin Township and finds that the Borough of Berlin is responsible in taken care of these issues of discolored water and odor. The solicitor suggested that all parties involved meet and discuss what should be done.

**Police Department Report**

Chief of Police, Lenny Check thanked Township Solicitor, Stuart Platt and his Office for their help in getting the Towing Ordinance and The Pawn Shop Ordinance in place in a timely matter. Chief also stated that the Berlin Township Community resource book is complete and copies can be obtained at the clerk Office.

**Property Maintenance / Animal Control**

Josh, reported that he notified owners of a business on Edgewood Avenue in regards to outside storage of machine parts and several large dumpster that were not buffered from surrounding properties. Josh stated that he will start writing summons for those who have not licensed their pets for 2014,

**SECOND READING AND PUBLIC HEAZRING ORDINANCE 2014-4 OF THE TOWNSHIP OF BERLIN, COUNTY OF CAMDEN, AND STATE OF NEW JERSEY, REPEALING AND REPLACING CHAPTER 304 OF THE CODE OF THE TOWNSHIP OF BERLIN ENTITLED“TOWING AND STORAGE SERVICES”.**

**WHEREAS**, on May 22, 2000, the Township of Berlin (“Township”) adopted Ordinance 2000-10, for the purpose of setting forth provisions governing towing contractors who desire to perform services associated with the towing and storing of motor vehicles in the Township, which is codified in Chapter 304 of the Township Code; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-2.49, municipalities are permitted to regulate the removal of motor vehicles from private or public property by operators engaged in such business and establish a schedule of fees or other charges which a towing operator may charge a motor vehicle owner for towing services, storage services, or both, provided that such regulations are non-discriminatory and non-exclusionary; and

**WHEREAS**, the Chief of Police has requested that certain changes be made to the Township’s towing and storage regulations; and

**WHEREAS**, in light of the above, the Governing Body has determined that it is in the best interest of the public health, safety and welfare of the Township and its residents to repeal and replace Chapter 304;

**NOW, THEREFORE**, be it Ordained by the Mayor and Township Council of the Township of Berlin, County of Camden, State of New Jersey, as follows:

**MARCH 24, 2014**

**SECTION 1:** Chapter 304 of the Code of the Township of Berlin is hereby repealed, in its entirety and replaced with a new Chapter 304, entitled “Towing and Storage” as follows:

**CHAPTER 304 TOWING AND STORAGE**

**ARTICLE I. GENERAL PROVISIONS**

**Section 304-1 Definitions**

The following words and terms, when used in this Chapter, shall have the meanings indicated below unless the context clearly indicates otherwise:

**ADDITIONAL LABOR CHARGES**

Charges and/or fees which a licensed towing operator is authorized by this Chapter to charge for additional and/or temporary employees enlisted by the licensed tower to facilitate loading, unloading, relocation and/or removal of vehicles, their cargos, debris or other obstructions impeding traffic which exceed the labor requirements of a basic towing service as defined by this Chapter.

**ADMINISTRATIVE CHARGES**

Charges which a licensed tower is required to pay to the Township of Berlin for the clerical and administrative costs associated with authorizing the release of towed vehicles.

**AUTOMOBILE**

A private passenger vehicle which meets the weight classification of a Type I Vehicle as defined in this Chapter and is otherwise designed, intended and/or used and operated by the owner thereof for the personal use and/or transport of the owner and the owner’s family and/or invitees and is not used for business, occupational, professional or commercial purposes. For purposes of this Chapter, the term “automobile” shall include but not be limited to all cars, light pick-up trucks, minivans, sport utility vehicles, cross-over vehicles and the like which meet the weight classification of a Type I Vehicle. “Automobiles” shall not include motorcycles or any vehicle which exceeds the weight classification of a Type I Vehicle.

**BASIC TOWING SERVICE**

The removal and transportation of one or more vehicles from a highway, street, other public or private road or parking area, or from a storage facility, and other services normally incidental thereto, including but not limited to flat-bedding and normal debris removal. For purposes of this Chapter, “basic towing services” shall include recovery of a vehicle from a position beyond the right-of-way or berm or from being impaled upon any other object within the right-of-way or berm.

**CHIEF**

The Chief of Police of the Police Department of the Township of Berlin and/or his or her designee(s), as the case may be.

## **MARCH 24, 2014**

### **GOVERNING BODY**

The Mayor and all members of the Township Council of the Township of Berlin.

### **GVW or GVWR**

The gross vehicle weight and/or gross vehicle weight rating assigned to an automobile or motor vehicle by the manufacturer thereof in accordance with governmental regulations. As used herein, "GVW" and "GVWR" shall have the same meaning and shall be used interchangeably.

### **LICENSED TOWER**

A towing company and/or towing operator licensed to provide towing services within the Township pursuant to this Chapter.

### **MOTORCYCLE**

All two-wheeled or three-wheeled motor-operated vehicles of the bicycle or tricycle type which are eligible to be registered with the New Jersey Motor Vehicle Commission for use on the highways and roadways of the State of New Jersey. As used in this Chapter, the term "motorcycle" shall include, without limitation, motorcycles, trikes, motor scooters, mopeds and like vehicles that otherwise meet the definition herein.

### **MOTOR VEHICLE**

Any device not described in the definition of "automobile" or "motorcycle" upon, in or by which a person or property may be transported upon a highway or roadway, except devices moved by human power or used exclusively upon stationary rails or tracks, and which meets the weight classification of a Type II Vehicle or Type III Vehicle as defined in this Chapter. For purposes of this Chapter, the term "motor vehicle" shall include but not be limited to all buses, cargo vans, heavy duty pick-up trucks, passenger vans, recreation vehicles, and/or tractor-trailers which meet the weight classification of a Type II Vehicle or Type III Vehicle.

### **MOTOR VEHICLE ACCIDENT**

An occurrence in which a vehicle comes into contact with any other object for which the vehicle must be towed or removed for placement in a storage facility. This includes all situations which are accidental as to the vehicle owner even if they are caused by the intentional acts of a perpetrator where the perpetrator was not the vehicle owner and not otherwise involved with the vehicle owner.

### **NON-BASIC TOWING SERVICE**

Services incidental to, but not including, Basic Towing Services. Non-Basic Towing Services may include, without limitation, recovery winching, excessive road clean-up, up-righting or flipping, use of more than one tow vehicle, use of dollie wheels and/or GoJaks, use of oil dry and/or similar major recovery services.

### **POLICE DEPARTMENT**

The Police Department of the Township of Berlin.

## **MARCH 24, 2014**

### **ROTATION LIST**

The list of licensed towers maintained by the Chief in accordance with Section 304-3 of this Chapter.

### **RECOVERY WINCHING**

The process of moving a vehicle by use of a cable from a position that is not accessible for direct hookup by conventional means for loading onto a tow vehicle. Recovery winching includes, but is not limited to, recovery of a vehicle that is overturned, over an embankment, off the roadway, in water, impaled on an object, crashed into a building or otherwise not accessible to immediate hookup by conventional towing equipment and/or not recoverable by basic winching. Recovery winching does not include winching associated with Basic Towing Services such as pulling a vehicle onto the bed of the carrier or lifting a vehicle with a conventional tow sling.

### **STORAGE CHARGES PER TWENTY-FOUR HOUR PERIOD**

The maximum allowable amount to be charged by a licensed tower for storage services in one twenty-four-hour period or fraction thereof. A new twenty-four-hour period begins at 12:01a.m.

### **STORAGE FACILITY – INSIDE SECURED**

A vehicle storage facility that is completely indoors, having one or more openings in the walls for storage and removal of vehicles and is secured by a locking device on each opening. As used herein, the terms “Storage Facility – Inside Secured” and “Inside Secured” shall have the same meaning and shall be used interchangeably.

### **STORAGE FACILITY – OUTSIDE SECURED**

A vehicle storage facility that is outdoors and is secured by a fence, wall or other man-made barrier that is at least six feet high and is protected by security measures approved by the Chief. As used herein, the terms “Storage Facility – Outside Secured” and “Outside Secured” shall have the same meaning and shall be used interchangeably.

### **STORAGE FACILITY – UNSECURED**

A storage facility which does not meet the definition of Inside Secured or Outside Secured.

### **TOW VEHICLE**

Only those vehicles licensed in accordance with this Chapter and equipped with a boom or booms, winches, slings, tilt beds, wheel lifts or under-reach equipment specifically designated by its manufacturer for the removal or transport of automobiles, motorcycles and motor vehicles.

### **TOW VEHICLE BASE OF SERVICE**

A licensed towing operator’s principal place of business where the tow vehicle is stationed when not in use.

## MARCH 24, 2014

### TOWNSHIP

The Township of Berlin.

### TYPE I VEHICLE

An automobile with a GVWR of less than 10,000 pounds.

### TYPE II VEHICLE

A motor vehicle with a GVWR between 10,000 pounds and 26,000 pounds.

### TYPE III VEHICLE

A motor vehicle with a GVWR of more than 26,000 pounds.

### VEHICLE or VEHICLES

As used in this Chapter, the term “vehicle” or “vehicles” shall collectively refer in general to one or more automobile, motorcycle and/or motor vehicle of any class as otherwise defined herein.

### VEHICLE REMOVAL CHARGE (YARD FEE)

The fee the licensed tower is permitted to charge for to move, remove or relocate a vehicle that is not movable from the licensed tower’s storage facility to a public street for towing by a secondary tower. For purposes of this Chapter, a vehicle that is not movable is defined as a vehicle without keys, mechanically disabled or unable to move under its own power.

### VEHICLES SUBJECT TO TOWING

Vehicles that require removal by a tow vehicle including, but not limited to, vehicles that are damaged in a motor vehicle accident, recovered after being reported stolen, abandoned, disabled, and/or to be confiscated or impounded by order of the Police Department due to being unregistered, uninsured, illegally parked, or otherwise impounded incident to an arrest or other motor vehicle violation, or whose operator is unable to safely operate the vehicle without being in violation of any federal, state or local statute or ordinance, or for any other legitimate reason as determined by the Police Department relating to the health, safety and welfare of the operator, other drivers on the roads within the Township and/or the Township residents.

### 304-2 Towing License Required; Number of Licensed Towers

- A. Only towing companies and/or operators licensed in accordance with this Chapter shall be permitted to tow any vehicle and/or provide any towing services within the Township of Berlin, except where a towing operator has been privately engaged or designated to tow, transport, convey or remove a vehicle from private property by the owner of that vehicle.
- B. No more than three (3) towing licenses shall be issued at any time or for any interval of time. Any applications filed after three (3) licensed towers have been placed on the rotation list shall not be processed.

## MARCH 24, 2014

### 304-3 List of Licensed Towers; Rotation

- A. The Chief shall maintain a list of all licensed towers, known as the "Rotation List."
- B. The Police Department shall call licensed towers on the Rotation List on a regular rotating basis. Licensed towers shall be assigned towing duties only when called upon in the rotation. Licensed towers shall not respond to the scene of an accident unless called upon by the officer in charge.

## ARTICLE II APPLICATION AND LICENSING PROCEDURES

### 304-4 Application for Towing License

- A. Any party interested in performing private towing services within the Township of Berlin shall complete an application for a towing license, a copy of which application shall be kept on file with the Police Department and shall be disseminated by the Chief.
- B. All applicants shall pay a non-refundable application fee for all administrative expenses associated with processing said application. The amount of the application fee shall be set annually by resolution of the Governing Body.
- C. All applications shall be investigated and evaluated by the Chief as to each applicant's qualifications and background and a report shall be submitted to the Governing Body setting forth the Chief's findings and recommendation. The Chief shall file said report within 30 days after receipt of an application. All applicants shall sign a release for information to be obtained by the Chief to complete the investigation and evaluation.
- D. All applications are subject to the approval of the Governing Body by resolution. Only applicants which are competent and qualified and meet the conditions of this Chapter shall be approved at which time the applicant shall be deemed a licensed tower in accordance with this Chapter. Any party aggrieved by the decision of the Governing Body shall be entitled to a hearing before same. All requests for such a hearing shall be submitted in writing within 10 days of the decision rendered by the Governing Body and the hearing shall be held within 30 days of receipt of the written request, unless both parties consent to a later hearing date.
- E. All approved applicants and/or licensed towers are required to execute a written contract with the Township to provide the services contemplated herein. The form of contract shall be prepared by the Township Solicitor and shall incorporate the terms and conditions set forth in this Chapter, including but not limited to the termination provisions set forth in Section 304-12, and such additional terms as

## MARCH 24, 2014

the Governing Body may require. All private towing contracts shall be in the same form for all approved private towing contractors. A copy of all towing contracts shall be maintained in the Township Clerk's office and shall be available for inspection and/or copying during the Township's regular business hours, subject to the requirements of the Open Public Records Act, N.J.S.A. 47:1A-1, et seq.

- F. All towing licenses issued in accordance with this Section shall be valid only for a period of one year. Notwithstanding same, all towing licenses shall expire on December 31 of each calendar year, regardless of when issued.
- G. Any licensed tower who seeks to renew the towing license and extend the towing contract shall follow the procedures set forth in this Chapter for a new towing license. The fee for a renewal application shall be the same as the fee for a new application.

### 304-5 Requirements of Applicants/Licensed Towers

In addition to providing all information required on the application form and satisfying all other requirements set forth in this Chapter, including but not limited to the Rules and Regulations, an applicant shall be required to satisfy the following conditions:

- A. Provide a scaled plot plan depicting the storage facilities.
- B. Have the ability to store all vehicles within at least a six-foot high fenced enclosure ("Outside Secured") or building enclosure ("Inside Secured"). The enclosure shall be in good repair and well maintained and all gates or entryways shall be secured by locks. Any application filed by an applicant with only an unsecured storage facility shall be rejected by the Chief on that basis.
- C. Have the following vehicles, which shall be stored within two miles of the Township's municipal boundaries, immediately available for use in providing towing services:
  - (1) One standard tow truck (manufacturers equipment); and
  - (2) One flat bed (manufacturers equipment).
- D. All tow vehicles shall be in good repair and regularly maintained. All tow vehicles shall be equipped with fire extinguishers and brooms. A copy of the title to all tow vehicles used for providing towing services hereunder shall be filed with the Township Clerk's office.
- E. Be available on a seven-day, twenty-four-hour basis. A response time of 15 minutes from the time of call or notice is required.

## MARCH 24, 2014

- F. Maintain comprehensive liability insurance in the amount of \$1,000,000 combined single limit; and garage-keepers liability insurance in the amount of \$75,000, both on hook and storage. The Township shall be named as an additional insured on all insurance policies and a copy of the certificates of insurance shall be filed with the Township Clerk when the required policies are issued and upon any renewal thereof.
- G. Maintain and operate a storage yard within two miles of the Township's municipal boundaries, which shall be open to the public on weekdays during normal business hours and on Saturdays until 12:00p.m. All vehicles towed are required to be stored at this storage facility. If the storage yard is not owned by the applicant, a copy of the lease agreement for the property shall be provided to the Township.
- H. Provide a record of its towing experience, including the years in business and other municipalities served.
- I. Utilize only properly trained employees to perform towing services.
- J. Agree, in writing, to defend, indemnify and hold the Township, its elected officials, boards, commissions, officers, employees and agents harmless for any and all suits, actions, claims, damages, judgments, costs and expenses, including attorney's fees, on account of breach of contract, damaged property, or personal injuries, including death, arising out of or in any way connected with the towing services to be provided. Licensed towers shall execute the required hold harmless agreement in the form approved by the Township Solicitor prior to being added or included on the rotation list.
- K. All billings for towing and storage shall be itemized for the services actually rendered pursuant to the annual fee schedule established by the Governing Body and/or as otherwise provided herein.

### 304-6 Rules and Regulations

- A. Each licensed tower shall at all times maintain the necessary equipment to remove, tow and/or transport vehicles as required by this Chapter. Prior to departure from the scene, the towing operator shall clean and clear the streets of any customary debris resulting from any motor vehicle accident at such scene and shall at all times carry the necessary equipment to perform said cleaning services.
- B. Refusal to tow an abandoned or stolen motor vehicle or to tow a vehicle from the scene of a motor vehicle accident may result in the disqualification of a licensed tower, and a report of said refusal shall be furnished to the Chief and the Township Clerk by the investigating officer at the scene of the accident, as soon as possible.

**MARCH 24, 2014**

- C. If the next licensed tower on the rotation list is unable to respond within the time constraints specified in this Chapter, he shall so notify the individual requesting the service and the next-named licensed tower then shall be called to respond.
- D. No licensed tower operating in accordance with the provisions of this Chapter shall employ, either directly or indirectly, any personnel or employees of the Township of Berlin.
- E. The Police Department shall maintain a log and/or record of calls made to licensed towers on the rotation list and said record shall be made available for inspection by any licensed tower in response to a written request for same submitted pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1, et seq.
- F. An individual whose vehicle has been towed and/or stored has the right to retrieve any of his or her personal possessions therefrom, even when said vehicle is within the possession of the licensed tower. Personal property shall be defined to include anything that is not permanently attached to the vehicle so as to be an integral part thereof. An individual seeking the retrieval of any personal items shall arrange with the licensed tower to obtain said items and shall be required to execute a receipt therefor. The licensed tower shall maintain copies of all said receipts.
- G. The Township reserves the right to review the qualifications of any personnel employed by the licensed tower at any time.
- H. The licensed tower and all of its employees are independent contractors and do not represent, nor are they employed by, the Township of Berlin.
- I. The licensed tower shall at all times be responsible for the conduct of its employees and shall be liable to the Township and the owners of any vehicles the licensed tower has towed or stored for any injuries, damages or costs incurred as a result of the conduct of said employees.
- J. All licensed towers shall comply with all State and Federal laws and regulations concerning the hiring of employees, their wages, hours and terms of employment.
- K. The Township is not liable for any of the services performed by any licensed tower. Licensed towers shall proceed directly against the individual owner of the vehicle for all fees and charges incurred.
- L. No licensed tower shall pile or store vehicles on public streets or sidewalks.
- M. Each licensed tower shall maintain a record of all vehicles towed, including the date towed, the vehicle identification number and license plate number of the vehicle, where the vehicle was stored, when the vehicle was released, and the fees

## MARCH 24, 2014

charged, together with any and all other services rendered. Said records shall be maintained at the tow vehicle base of service for a period of at least three (3) years after the vehicle is released.

- N. No licensed tower shall be permitted to assign its contract with the Township or to subcontract its towing services to any other towing company or operator.

### ARTICLE III TOWING AND STORAGE FEES; ADMINISTRATIVE CHARGE

#### 304-7 Towing Fees

- A. The Governing Body shall establish annually, by resolution, the approved towing fees which a licensed tower is permitted to charge. The resolution shall include a list of fees itemized by type of service as follows:
- (1) Basic Towing Services
    - (a) Type I Vehicles
    - (b) Type II Vehicles
    - (c) Type III Vehicles
    - (d) Motorcycles
    - (e) Vehicle removal charge (yard fee)
  - (2) Non-Basic Towing Services
    - (a) Additional Labor
    - (b) Excessive road clean-up
    - (c) Recovery Winching (cost per hour)
      - (i) Light Winching
      - (ii) Heavy Winching
    - (d) Use of more than one tow vehicle
    - (e) Use of dollie wheels and/or GoJaks
    - (f) Use of oil dry (actual cost per bag)

## MARCH 24, 2014

- B. All licensed towers agree they will be obligated to tow, flatbed and provide any basic towing service, including but not limited to tire change, battery charge and the like, for the Police Department at no charge for police vehicles with a GVWR of 10,000 pounds or less. Towing services for Police Department vehicles in excess of 10,000 pounds GVWR shall be subject to the fees then established for Type I Vehicles. Only the licensed tower on call will be required to provide such services.

### 304-8 Storage Fees

- A. The Governing Body shall establish annually, by resolution, the approved storage fees which a licensed tower is permitted to charge. The resolution shall include a list of fees itemized by type of storage facility and type of vehicle as follows:
  - (1) Outside Secured
    - (a) Type I Vehicles
    - (b) Type II Vehicles
    - (c) Type III Vehicles
    - (d) Motorcycles
  - (2) Inside Secured
    - (a) Type I Vehicles
    - (b) Type II Vehicles
    - (c) Type III Vehicles
    - (d) Motorcycles

### 304-9 Application of Fee Schedules

- A. The towing and storage fee schedules adopted by resolution of the Governing Body shall be applied in accordance with the following terms and conditions:
  - (1) No person shall be liable to any licensed tower and/or employee thereof for any towing or storage fees in excess of those permitted by the towing and storage fee schedule authorized by this Chapter and approved by resolution of the Governing Body.
  - (2) The fees established by the Governing Body for towing services are the only charges that shall apply to vehicles for which basic towing services have been

## MARCH 24, 2014

rendered as a result of an accident, theft recovery or other reason set forth herein and for other non-basic towing services as described in this Chapter. There shall be no additional charges for flat-bedding, waiting time, winching, cleanup cost, and additional labor, when only basic towing services, as defined herein, are provided.

- (3) Tow vehicles transporting multiple vehicles at one time shall receive the applicable fees for each vehicle transported.
- (4) The storage fees set forth in the resolution are the storage charges per twenty-four-hour period that shall apply to any vehicle that is stored by a licensed tower pursuant to and in accordance with this Chapter.
- (5) No insurer or rating organization shall include any expense for storage of a vehicle for more than 30 days into the base for determining private passenger automobile rates or other vehicle rates used or to be used in this State.
- (6) In the event a vehicle is abandoned due to the death or incapacitation of the driver or any passenger, a storage fee of no more than \$100.00 shall be charged for the first seventy-two (72) hours after the vehicle is placed in the licensed tower's approved storage facility.
- (7) Storage charges per twenty-four (24) hour period shall start at 12:01 a.m. for a twenty-four (24) hour period or fraction thereof. No storage charge shall be imposed for any day the yard is closed, such as Sundays or Holidays.

### 304-10 Administrative Fee

- A. An administrative fee shall be collected by the licensed tower and paid to the Township of Berlin for the Police Department's clerical and administrative costs associated with authorizing the release of towed vehicles. The amount of the administrative fee shall be established by the Governing Body annually and shall be set forth in the resolution required by Section 304-7 of this Chapter.
- B. The licensed tower shall tender payment of all administrative fees collected pursuant to Subsection A above by 3:00p.m. on the fifteenth (15<sup>th</sup>) day of each month for every vehicle released the previous month. The check shall be made payable to the "Township of Berlin" and shall be delivered to the Berlin Township Police Department, Administration Offices, 135 South Route 73, West Berlin, New Jersey, 08091.
- C. A late fee of \$20.00 per day will be assessed against a licensed tower, starting at 3:01p.m. on the fifteenth (15<sup>th</sup>) day of the month and continuing every day thereafter until the administrative fee is paid. The Police Department will notify the licensed tower, in writing, by the seventh (7<sup>th</sup>) day of the next month when a late fee has been assessed pursuant to this Section. Any late fee assessed

## MARCH 24, 2014

hereunder shall be added to and paid with the administrative fee for the month in which the notice of late fees was issued by the Police Department.

### ARTICLE IV ADMINISTRATION AND ENFORCEMENT

#### 304-11 Police Department as Enforcing Authority

The Police Department generally, and the Chief of Police in particular, are hereby designated as the enforcing authority to enforce the provisions of this Chapter as well as the rules and regulations adopted hereunder. The enforcing authority shall have the authority to hear complaints against any licensed tower whether brought by Township personnel, the public or other licensed towers.

#### 304-12 Termination of Towing License and Towing Contract

- A. Subject only to the hearing provisions set forth in Section 304-13, the Township may revoke a towing license and terminate a towing contract on any of the following grounds:
- (1) submitting a fraudulent or misleading application;
  - (2) a criminal conviction of the licensed tower or a named principal thereof;
  - (3) failure to respond reliably and promptly to calls for assistance or engaging in any other conduct which interferes with the proper operation of the call rotation system maintained by the Police Department;
  - (4) violations of motor vehicles laws and/or municipal ordinances by the licensed tower, any driver of a tow vehicle and/or any employee of the licensed tower;
  - (5) failure or refusal to remove a motor vehicle when requested to do so by an appropriate municipal official;
  - (6) violations of the zoning ordinance, property maintenance code or any other applicable ordinances or codes of the Township of Berlin pertaining to the use or condition of the storage facilities used by the licensed tower and/or the licensed tower's base of service; or
  - (7) violation and/or breach of any of the terms, conditions, rules and regulations of this Chapter and/or any of the provisions of the towing contract.
- B. The Chief shall provide a licensed tower written notice of cause for revocation of a towing license and termination of a towing contract. The notice shall identify the reasons for revocation and termination and shall indicate the date, time and location at which the Chief will conduct the hearing required by Section 304-13.

## MARCH 24, 2014

### 304-13 Hearing on Notice of Revocation and Termination; Appeals

- A. No towing license or towing contract shall be terminated until after the Chief has issued the notice required by Section 304-12(B) and has conducted a hearing in accordance with this Section.
- B. The notice required by Section 304-12 shall set forth a hearing date which shall not be less than ten (10) days nor more than thirty (30) days after the date upon which the notice is served upon and/or delivered to the licensed tower.
- C. The licensed tower shall have the right to file an answer to the notice and to appear in person, or be represented by an attorney, and give testimony at the place and time fixed for the hearing. Any such answer must be filed at least five (5) days before the hearing date. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Chief.
- D. After the hearing, the Chief shall set forth in writing the findings of fact in support of the determination to be made and shall issue and caused to be served upon the licensed tower said findings and determinations. In the event the towing license is revoked, the Chief shall immediately notify the Governing Body who shall ratify the Chief's decision in a resolution which revokes the towing license and terminates the towing contract.
- E. The licensed tower may appeal the decision of the Chief to the Governing Body upon submission of a written request for an appeal hearing. The Governing Body shall provide the licensed tower with notice of the time and place of the appeal hearing, at which hearing the licensed tower will be given an opportunity to present reasons why the towing license should not be revoked and the towing contract should not be terminated.

### 304-14 Complaint Procedures

Any and all complaints or disputes between any person whose vehicle has been towed or stored by a licensed tower in accordance with this Chapter shall be submitted to the Police Department, in writing, within seven (7) days of the complainant's receipt of the invoice for towing and/or storage charges. The written complaint shall explain the nature of the complaint or dispute in sufficient detail for the Police Department to understand same and shall contain a statement indicating the relief sought. All complaints and/or disputes submitted in accordance with this Section shall be resolved within the discretion of the Chief.

**SECTION 2:** The Table of Contents of Chapter 304 shall be amended to reflect the new Article and Section numbers and headings as set forth in Section 1 of this Ordinance.

**SECTION 3:** All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

**MARCH 24, 2014**

**SECTION 4:** If the provisions of any section, subsection, paragraph, subdivision, or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this Ordinance.

**SECTION 5:** This Ordinance shall take effect immediately upon final passage and publication in accordance with law.

Motion by Councilman Epifanio, second by Councilwoman Bodanza 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 2014-4.

No comments were to be heard.

Motion by Councilman Epifanio, second by Councilwoman Bodanza to close the meeting to the public. Motion carried by voice vote, all present voting in favor. Mayor Magazzu closed the meeting to the public for questions or comments on Ordinance 2014-4.

Motion by Councilman Epifanio second by Councilwoman Bodanza to adopt Ordinance 2014-4 Ordinance approved by call of the roll, five members present voting in the affirmative.

**SECOND READING AND PUBLIC HEARING ORDINANCE 2014-5 CALENDAR  
YEAR 2014 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET  
APPROPRIATIONS LIMITS AND TO ESTABLISH A CAP BANK (NJSA 40A;4-45.14).**

**WHEREAS**, the Local Government Cap Law, N.J.S.A. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to .5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

**WHEREAS**, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

**WHEREAS**, the Mayor and Council of the Township of Berlin in the County of Camden finds it advisable and necessary to increase its CY 2014 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

**MARCH 24, 2014**

**WHEREAS**, the Mayor and Council hereby determines that a 3.0 % increase in the budget for said year, amounting to \$197,729.43 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

**WHEREAS**, the Mayor and Council of the Township of Berlin hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

**NOW THEREFORE BE IT ORDAINED**, by the Mayor and Council of the Township of Berlin, in the County of Camden, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2014 budget year, the final appropriations of the Township of Berlin shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.0 %, amounting to \$197,729.43, and that the CY 2014 municipal budget for the Township of Berlin be approved and adopted in accordance with this ordinance; and,

**BE IT FURTHER ORDAINED**, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

**BE IT FURTHER ORDAINED**, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

**BE IT FURTHER ORDAINED that** a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

Motion by Council President Morris, second by Councilman Epifanio 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 2014-5.

No comments were to be heard.

Motion by Council President Morris, second by Councilman Epifanio to close the meeting to the public. Motion carried by voice vote, all present voting in favor. Mayor Magazzu closed the meeting to the public for questions or comments on Ordinance 2014-5.

Motion by Council President Morris second by Councilman Epifanio to adopt Ordinance 2014-5 Ordinance approved by call of the roll, five members present voting in the affirmative.

MARCH 24, 2014

**RESOLUTION 2014-79 PAYMENT OF BILLS MARCH.**

WHEREAS, the Code of the Township of Berlin, Chapter 7-1 et seq., provides for the 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 to be paid.

| TO                          | ACCOUNT                          | AMOUNT    |
|-----------------------------|----------------------------------|-----------|
| Robert E. DePersia II, ESQ. | Municipal Public Defenders Trust | \$ 300.00 |
| Voorhees Animal Orphanage   | Dog Trust                        | 400.00    |

**CONFIRMING**

|                               |                     |            |
|-------------------------------|---------------------|------------|
| Verizon                       | 4-01-31-443-2077    | 99.99      |
| Verizon                       | 4-01-20-120-2105    | 143.14     |
| State of NJ Health Benefits   | 4-01-23-220-2092    | 62,994.60  |
| State of NJ Health Benefits   | 4-01-23-220-2092    | 28,522.33  |
| TD Bank, N.A.                 | 4-01-45-920-2105    | 325,000.00 |
|                               | 4-01-45-930-2105    | 14,518.75  |
| TD Bank, N.A.                 | 4-01-45-920-2105    | 350,000.00 |
|                               | 4-01-45-930-2105    | 41,462.50  |
| Ameriflex                     | Flex Claims Account | 75.00      |
| Registrar Association         | 4-01-20-120-2041    | 105.00     |
| Verizon                       | 4-01-31-443-2077    | 99.99      |
| TD Bank, N.A.                 | 4-07-66-240-0262    | 21,413.01  |
|                               | 4-07-55-522-2105    | 14,608.87  |
| Payroll, Current Fund         | 02/20/2014          | 128,705.77 |
| Payroll, Sewer Operating Fund | 02/20/2014          | 7,115.52   |
| Payroll, Current Fund         | 03/06/2014          | 121,826.14 |
| Payroll, Sewer Operating Fund | 03/06/2014          | 6,345.57   |

Motion by Council President Morris, second by Councilwoman Bodanza to adopt Resolution 2014-79. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2014-80 RESOLUTION TO APPROVE A MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWNSHIP OF BERLIN AND BUSINESS WATCH INTERNATIONAL (USA), INC., FOR THE PROVISION OF ELECTRONIC REPORTING SERVICES PURSUANT TO CHAPTER 244 OF THE CODE OF THE TOWNSHIP OF BERLIN, ENTITLED "PAWNBROKERS AND DEALERS IN SECONDHAND GOODS"**

**MARCH 24, 2014**

**WHEREAS**, Chapter 244 of the Code of the Township of Berlin ("Township"), entitled "Pawnbrokers and Dealers in Secondhand Goods," establishes licensing, reporting, monitoring and enforcement procedures for pawnbrokers, pawnshops and dealers in secondhand goods operating within the Township in accordance with the New Jersey Pawnbroking Law, N.J.S.A. 45:22-1, et seq.; and

**WHEREAS**, Section 244-4 requires pawnbrokers and dealers in secondhand goods who are duly licensed to operate within the Township to satisfy the reporting requirements of Chapter 244 and the New Jersey Pawnbroking Law through an internet-based company and/or service selected by the Berlin Township Chief of Police; and

**WHEREAS**, pursuant to Section 244-4(A)(2) of the Berlin Township Code, the Chief of Police has investigated various internet-based reporting companies and has recommended use of the internet-based reporting service known as the Regional Automated Property Information Database ("RAPID") which service is provided by Business Watch International (USA), Inc.;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of Berlin, in accordance with Section 244-4 of the Berlin Township Code, that use of the RAPID internet-based reporting system to satisfy the reporting requirements for pawnbrokers and dealers in secondhand goods as established in Chapter 244 of the Code of the Township of Berlin in accordance with the New Jersey Pawnbroking Law is hereby approved; and

**BE IT FURTHER RESOLVED** that the Mayor and Council further approve the form of the Memorandum of Understanding attached hereto as Exhibit "A," which document sets forth the terms of such use; and

**BE IT FURTHER RESOLVED** that the Mayor is hereby authorized to implement this resolution by executing any documents necessary in connection therewith, including but not limited to the Memorandum of Understanding.

Motion by Councilman Epifanio, second by Councilwoman Bodanza to adopt Resolution 2014-80. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2014-81 RESOLUTION TO APPOINT ROBERT BRAY PART TIME PROPERTY MAINTENANCE INSPECTOR**

**BE IT RESOLVED** by the Mayor and Township Council of the Township of Berlin, that **ROBERT BRAY** is hereby appointed as part time Property Maintenance Inspector (not to exceed 8 hours per week) for a term commencing March 24, 2014 until December 31, 2014.

**MARCH 24, 2014**

Motion by Council President Morris, second by Councilwoman Bodanza to adopt Resolution 2014-81. Resolution adopted by call of the roll, five members present voting in the affirmative.

**Business Licenses**

1) **Hair2Pleaze and Hut Apparell, Helen Trye**, 455 Route 73 North west Berlin NJ 08091. Beauty Salon, Clothing Store and Dress Making  
Motion by Council President Morris, second by Councilman McIntosh to approve the business licenses above. Licensed approved by call of the roll, five members present voting in the affirmative for license.

2) **Pure Puff Vapor Supply, Eric Saat**, 599 Route 73 West Berlin NJ 08091. Retail Electronic Cigarettes.

Motion by Councilman McIntosh, second by Councilwoman Bodanza to approve the business licenses above. Licensed approved by call of the roll, five members present voting in the affirmative for license.

**Mayor Magazzu stated that we need to look into our Ordinance for Parks and recreation in regards to the electronic cigarettes.**

**Correspondences for February 2014**

Motion carried by Council President Morris, second by Councilwoman Bodanza to receive and file the correspondence calendar for February 2014. Motion carried by voice vote, all present voting in the affirmative.

**Consent Agenda**

Motion by Councilman Epifanio, second by Councilwoman Bodanza to receive and file the monthly reports on the consent agenda. Motion carried by voice vote, five present voting in the affirmative.

**Approval of March 10, 2014 Meeting Minutes**

Motion by Council President Morris, second by Councilman McIntosh to approve the minutes for March 10, 2014. Motion carried by voice vote, five present voting in the affirmative.

**All Other Business**

1) **Discuss the 2014 Safety Management Program**

**MARCH 24, 2014**

**Public Portion**

Motion by Councilman Epifanio, second by Council President 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.

No comments were to be heard.

Motion by Council President Morris, second by Councilman Epifanio to close the meeting to the public. Motion carried by voice vote, all present voting in favor. Mayor Magazzu closed the meeting to the public.

**Adjourn**

Motion by Councilman Epifanio, second by Council President Morris to adjourn the meeting at 5:25 pm. Motion carried by voice vote, all members present voting in the affirmative.

Meeting adjourned 5:25 pm

---

Catherine Underwood, Township Clerk