

MARCH 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 MARCH 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- Donafaye Zoll, Solicitor Charles Reibel Jr. Engineer
Michael Laginestra, Zoning Officer, Michael McGee,
Director Public Works, Lori Campisano, CFO

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.

No comments were 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

ENGINEER'S REPORT

1. ECONOMIC STIMULUS PROGRAMS

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

The U.S. Congress and Senate have passed the legislation. I believe that the earmarks, which have been included in the Program, are on a Federal level and all municipal projects will be determined by the State agencies.

b. FY2010 Appropriations Request Form:

On short notice, Congressman Andrew's Office requested that municipalities submit a listing of projects to his office by February 26, 2009. On behalf of the Township, we submitted the following projects:

Priority 1- New Municipal Building
Amount Requested: \$ 4,993,107.00

Priority 2- Street Improvements Program
Amount Requested: \$ 2,100,000.00

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

The Governing Body decided not to submit the necessary documents for consideration for funding, since it may be more beneficial to utilize a vehicle wash facility in a nearby municipality.

d. N.J.D.O.T. Local Aid Infrastructure (Discretionary) Fund Request:

It is our understanding, in speaking with representative of the N.J.D.O.T., that there may be Federal Stimulus funds, which will be distributed through discretionary funds.

A request has been submitted for the following projects:

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- 1) Katherine Avenue- Route 73 to the end =\$1,077,000.00
- 2) Mt. Vernon Ave- Minck Ave to Franklin Avenue =\$234,400.00
- 3) Hazel Ave-Chestnut Ave to Cushman Avenue =\$189,300.00
- 4) Magnolia Ave- Chestnut Ave to Cushman Avenue= \$170,135.00

As directed by the N.J.D.O.T., the Governing Body passed Resolution No. 2009-81, authorizing the submission of the request for funding. We have submitted the resolution to the N.J.D.O.T. Local Aid Office.

It is anticipated that the N.J.D.O.T. will be announcing selected projects in the near future. We recommend that the Governing Body contact your representing State legislators to request their support and assistance, regarding this request for funding.

e. Green and Clean Energy Programs:

Funds have been allotted, under the Federal Stimulus funds for the implementation of green and clean energy projects.

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.

The bid proposal will include all work, as discussed with Mr. McGee.

3. LEASE/PURCHASE OF SENIOR CITIZENS BUS, (C.D.B.G. YEARS 30 AND 31 FUNDING- \$60,500.00+/-)

We are preparing the bid documents for the lease/purchase of the bus, utilizing the C.D.B.G. funds. The proposal will include bids for a gasoline, diesel, or liquid propane engine.

We expect to receive bids for review and consideration for action, by the Governing Body at the Council Meeting on March 23, 2009.

4. PROPOSED MUNICIPAL BUILDING, N.J.S.H. ROUTE 73 AND DAY AVENUE (KEI# 422BT0804):

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We have completed the land surveying fieldwork and are preparing the survey for the premises. Once completed, we will issue the survey plan to the Governing Body and Ms. Zoll.

We have found that the stoned driveway for the adjacent Woloczyn property encroaches onto the parcel-in-question. As recorded in a deed, the Woloczyns were required to remove the encroaching driveway in 1999.

We will also be preparing the construction plan and specifications for the site improvements for inclusion in the architect's bid package.

5. 2008 STREET IMPROVEMENT PROGRAM (KEI# 491BT0308)

We anticipate the weather becoming more suitable for the Contractor to perform the corrective work in April, 2009.

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

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

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

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

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

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

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

We have contacted the Department to determine the status of the authorization to schedule the receipt of bids. The Department is still reviewing the construction plans and specifications package and will advise our office, accordingly.

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

The County Engineer has informed us that the Freeholders have allocated the funds for the project. As requested by the County Engineer, we have forwarded copies of the plans and specifications to him for submission to the N.J.D.O.T. Local Aid Office.

We anticipate that the Freeholders will be bidding the project during the Spring of 2009.

8. **IMPROVEMENTS TO THE INTERSECTION OF HADDON AVENUE AND FRANKLIN AVENUE:**

No update to report at this time.

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

I will be issuing the final version of the Engineer's Recommendations Report for short term and long term improvements, in the immediate future. I believe it is the intent of the Governing Body to focus their efforts on the proposed Municipal Building in 2009.

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

- a. Request to the Commissioner for the Reconsideration for a Traffic Signal at the Intersection of N.J.S.H. Route 73 and D'Angelo Drive:

On February 5, 2009, I received a letter from Commissioner Dilts. The Commissioner has asked his staff to review the request and is expected to respond, shortly. I have requested a status update of the review by the N.J.D.O.T. Once I receive a response, I 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:

Our office has prepared the N.J.D.O.T. checklist and revised payment voucher, as requested. We will forward this information once fully endorsed.

- c. Planting of Trees Along the Rear of the Retail Center, Along the N.J.D.O.T. Ramp, Connecting Oak Avenue to Taunton Avenue (KEI484BT0108):

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I have contacted the owner of the retail center and the N.J.D.O.T. Landscape Architect for a status update, regarding this matter. Once I receive their response, I will inform the Governing Body.

- 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.

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

The D.V.R.P.C. staff is still performing the study. As recently requested, I have sent them a copy of the Traffic Study for the Pinedge development.

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

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

13. 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.

14. 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

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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.

15. 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.

16. 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.

17. LEGISLATION TO ALLOW FOR AGE-RESTRICTED RESIDENTIAL DEVELOPMENTS TO CHANGE NON-AGE RESTRICTED:

Senate Bill No. 2577 was introduced on February 23, 2009. This legislation will allow for the change of age-restricted housing developments to market rate, non-restricted developments, pending that the applicant can demonstrate compliance with the N.J. Residential Site Improvement Standards, recreation is revised to meet the needs of the new development, there is adequate water and water capacity, and there is adequate parking. If the percentage of impervious surface increases by more than 1%, as a result of improvements for the new development, the stormwater calculations and improvements must be revised, accordingly. The legislation also requires the inclusion of the required affordable housing, generated by the development, into the development.

The applicant is not required to post any application fee for this request. They are only required to post a reasonable engineering review escrow fee.

The legislation allows for the change to the non-restricted units, without requiring the granting of a "d" (use) variance.

The request for the change must be made within 24 months of the enactment of the legislation, unless the poor economic conditions still exist, at the time.

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18. LEGISLATION PERMITTING CERTAIN SOLAR AND WIND FACILITIES WITHIN INDUSTRIAL ZONES:

The Senate passed Bill S1299. On February 26, 2009, the Assembly held the second reading on concurrence. The legislation allows renewable energy facilities on industrial zone lands, on 20 or more contiguous acres owned by the same party.

Senate Bill 1303 was passed on February 21, 2009. This legislation will include "facilities that supply electrical energy produced from wind, solar, or photovoltaic technologies will be considered (to be) an inherently beneficial use." The legislation is in Committee in the Assembly.

19. PERFECTION OF THE SUBDIVISION FOR THE LUKE AVENUE RECREATION COMPLEX AND P.S.E.G. PROPERTIES:

As discussed with Ms. Zoll, we will be requesting the Planning Board to re-approve the subdivision so that the parcels can be transferred between the Township and P.S.E.G.

20. COUNCIL ON AFFORDABLE HOUSING, ROUND 3 RULES:

a. 2.5% Non-Residential Development Fee:

On February 26, 2009, the Senate Budget Committee voted to exempt non-residential development projects, approved before mid-2010, from the 2.5% development fee.

It is not clear if this legislation will apply to the development fees, which have already been collected, as some municipalities have utilized the collected monies. It is anticipated that municipalities, which have expended the fees or signed contracts to spend the fees may be reimbursed by the State.

The legislation now goes before the fall Senate and Assembly Committee hearing.

b. Housing Requirements:

It is my understanding that the legislators have discussed the revamping of the C.O.A.H. regulations. I am not aware of any legislation being introduced, at this time.

21. MONTEBELLO AGE-RESTRICTED DEVELOPMENT (KEI#29-104BT):

The developer's representative had asked me to pass along their appreciation to the Governing Body for allowing them to operate the

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pumping station and discharge to the Township sanitary sewer collection system. They have discussed possible connection of the Dynasil facility with the representative of Dynasil.

The developer has, recently, requested that the Planning Board allow them to only construct the proposed stormwater management facility/lake only to the water elevation and not below due to the current economic conditions. The lake will be constructed, at a later date, most probably by July 2010. The performance bond, for the remaining work, will remain in effect, until said work has been completed by the developer.

The Planning Board has accepted this request.

22. N.J.B.P.U. 2009 RENEWABLE ENERGY INCENTIVE PROGRAM:

The B.P.U. is offering rebates for non-residential solar and wind projects. Renewable Energy Certificates (REC's) will be available for all renewable energy projects. System owners can, then, sell or transfer the REC's to electricity suppliers, which are required to purchase a certain number of REC's each year.

Applications for this Program are being accepted until April 30, 2009.

SOLICITORS REPORT

1. Water Agreement with Berlin Borough
2. Increase Sewer Allocation Buildout
3. Vacation Portion Kelley Drive
4. New Municipal Building
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. Carol Winn
12. Tax Foreclosures
13. Swimming Pool Ordinance
14. Public Intoxication/ Disorderly Ordinance
15. Clothing Donation Bins

PUBLIC WORKS DEPARTMENT

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Mike McGee, director of Public works commented that on June 1st the new updates for the stormwater Ordinance were to start taking place. Mike also talked about grant money being available from the Green Future Committee.

ZONING DEPARTMENT

Zoning Officer Michael Laginestra discussed that the township will start writing summons for the pets not licensed. At this time the Township has about 136 pets not licensed.

FIRST READING ORDINANCE 2009-4 AMENDING CHAPTER 87 OF THE CODE OF THE TOWNSHIP OF BERLIN CAPTIONED "PEACE AND GOOD ORDER"

Motion by Council President DiGangi, seconded Councilman McIntosh to adopt Ordinance 2009-4 on first reading by title. Ordinance adopted by call of the roll, four member present voting in the affirmative.

RESOLUTION 2009-83 REQUEST FOR PERFORMANCE BOND REDUCTION FOR FELLOWSHIP BAPTIST CHURCH.

WHEREAS, Fellowship Baptist Church, NJ, Township of Berlin, Camden County, New Jersey, Block 102, Lot 13, has requested the reduction of the performance Bond of \$70,338.00 and

WHEREAS, the Engineer has recommended that the Township grant the request for the reduction of the performance bond of \$70,338.00 to the amount of \$30,828.00

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Berlin, Camden County, New Jersey, that the request for the reduction of the Performance Bond for Fellowship Baptist Church is hereby granted.

Motion by Councilman McIntosh, second by Council President DiGangi to adopt Resolution 2009-83. Resolution adopted by call of the roll, four members present voting in the affirmative.

RESOLUTION 2009-84 GRANTING ARCADE AMUSEMENT GAMES LICENSES TO SAHARA SAM'S OASIS, LLC

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WHEREAS, Sahara Sam's Oasis has filed applications with the Township of Berlin, County of Camden, New Jersey, for a Amusement Games License for the year commencing March 6, 2009 and ending December 31, 2009;

Sahara Sam's Oasis, LLC
00191
Arcade
535 North Route 73 West Berlin N.J.

License # 36-2000-1-
Tr. No. 1330

WHEREAS, the application of the above named has been examined by the Mayor and Council and has been found to be in proper order; and

WHEREAS, the proper fees have been paid to the Township of Berlin,

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Berlin that the license be and is hereby granted. The Township Clerk is hereby authorized and directed to issue a license from March 6, 2009 and ending December 31, 2009.

Motion by Council President DiGangi, second by Councilman McIntosh to adopt Resolution 2009-84. Resolution adopted by call of the roll, three members present voting in the affirmative, one member abstained.

BUSINESS LICENSES FOR APPROVAL

a) Jackson Gas, Chaudhery Hassan Akhtar, 899 Route 73 North, Gas Station Car Wash Facility.

Motion by Councilman McIntosh, second by Council President DiGangi to approve new business license for Jackson Gas. License approved by call of the roll four members present voting in the affirmative.

b) Tactical Public Safety LLC, James Foley, 199 Edgewood Avenue, Design Repair & Technical Service of Public Safety Radio Communication Systems.

Motion by Council President DiGangi, second by Councilman McIntosh to approve new business license for Tactical Public Safety. License approved by call of the roll four members present voting in the affirmative.

c) Damiano Consulting, Mark DaMiano, 150 Cooper Road, Engineering, Consulting Minor Fabrication& Assembly.

Motion by Council President DiGangi, second by Councilman McIntosh to approve new business license for Damiano Consulting. License approved by call of the roll four members present voting in the affirmative.

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d) Dojo Mixed Martial Arts Training Center, Sheila Caruso, 545 Route 73 North, Martial Arts Instruction Schools.
Motion by Council President DiGangi, second by Councilman McIntosh to approve new business license for Dojo Mixed Martial Arts Training Center. License approved by call of the roll four members present voting in the affirmative.

APPROVAL FOR SOLICITORS PERMIT

a) Mr. Softee, Stefan Craciunescu, selling ice cream and related items from his truck.
Motion by Council President DiGangi, second by Councilman Morris to approve Solicitors permit for Mr. Softee. License approved by call of the roll four members present voting in the affirmative.

CONSENT AGENDA

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

APPROVAL OF MINUTES FOR FEBRUARY 23, 2009

Motion by Councilman Morris, second by Councilman McIntosh to approve the minutes of February 23, 2009. Motion carried by voice vote, three members present voting in the affirmative, one member abstain.

APPROVAL OF CLOSED MINUTES FOR FEBRUARY 23, 2009

Motion by Councilman Morris, second by Councilman McIntosh to approve the closed minutes of February 23, 2009. Motion carried by voice vote, three members present voting in the affirmative, one member abstain.

CORRESPONDENCE CALENDAR FOR FEBRUARY 2009

Motion carried by Councilman Morris, second by Councilman McIntosh to receive and file the correspondence calendar for February 2009. Motion carried by voice vote, all present voting in the affirmative.

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GOOD & 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.

Mr. McShea of Mt. Vernon Ave inquired about the tree ordinance that was on the agenda for discussion.

Council President DiGangi responded that Mayor and Council were looking into options of the Town in regards of preserving trees. Council President DiGangi asked the public for any suggestions on this matter.

Councilman Morris stated that we need to find a solution for all the clear cutting of trees.

No more comments were to be heard.

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

ALL OTHER BUSINESS

**FIRST READING ORDINANCE 2009-5 OF THE TOWNSHIP OF BERLIN
AMENDING CHAPTER 129 OF THE CODE OF THE TOWNSHIP OF BERLIN
TITLED "ZONING"**

Motion by Council President DiGangi, seconded Councilman Morris to adopt Ordinance 2009-5 on first reading by title. Ordinance adopted by call of the roll, four member present voting in the affirmative.

ADJOURNED

Motion by Councilman Morris, 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

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