

JULY 11, 2016

**BI-MONTHLY MEETING OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF BERLIN, CAMDEN COUNTY, NEW JERSEY AT BERLIN TOWNSHIP MUNICIPAL HALL JUNE 13, 2016 AT 5:30 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 Courier Post, Record Breeze and posted on the bulletin board.  
All in attendance joined in the Salute to the Flag.

**ROLL CALL**

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

**Also Present-** Solicitor, Stuart Platt Esq, CFO, Lori Campisano, Township Engineer / Public Works Director Chuck Riebel.

**Absent-** Maintenance/Animal Control, Josh Shellenberger, Chief of Police Leonard Check.

**Mayor Magazzu asked for a moment of silence in respect to the recent shooting in Texas.**

**Good Energy:** Javier Barrios a managing partner for Good Energy came in and updated the Governing Body on what was happening with the surrounding municipalities who have joined in with Good Energy. Good Energy empowers local governments to create large electricity buying groups in pursuit of cheaper and more stable energy supply rates.

**Departmental Reports**

**ENGINEER/ PUBLIC WORKS DIRECTOR**

**A. CHANGE ORDERS AND VOUCHERS**

None at this time.

**B. RESOLUTIONS AND ORDINANCES FOR CONSIDERATION**

**1. Automated Refuse Trucks**

I recommend that the Governing Body consider passing a resolution, awarding a contract to Hunter Jersey Peterbilt of Clarksburg, N.J. for the Base Bid and Alternate Bid Numbers 2 (Auto-lube System for Automated Arm) and Alternate Number 3 (Refuse Body Wrap) for a total amount of \$536,664.00 and accepting the exceptions to the technical specifications.

**2. Carts for Solid Waste, Recyclable Materials and Vegetation**

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I recommend that the Governing Body pass a resolution, awarding a contract for the options, which are selected by the Governing Body.

If the Governing Body decides to select the recyclable carts with the pink lids, breast cancer ribbon and \$5.00 donation to the American Cancer Society, the award would be made to Schaefer Systems International, Inc. of Charlotte, North Carolina for the Base Bid and Alternate Number 4 for a total amount of 343,978.95 and accepting the exceptions to the technical specifications.

**C. ENGINEER'S REPORT**

**1. Dog Park at Luke Avenue Recreation Complex (Camden County Recreation Enhancement Funding- \$25,000)**

The Public Works crew has completed the majority of the construction work. The signs have been ordered and should be installed, in the near future.

We expect to perform the painting of fence boards in the early Fall, 2016.

**2. Band Shell at Luke Avenue Recreation Complex**

The Public Works crew has completed the construction of the foundations and the portion of the concrete pad, which is under the band shell. The kit for the structure is scheduled to be delivered, in the immediate future. The volunteer crew expects to perform the erection of the band shell structure, shortly after the delivery of the kit. Once the structure has been erected, the Public Works crew will construct the remainder of the concrete pad, in front of the band shell.

We are researching the possible purchase and installation of temporary structures, which would extend the covered portion of the concrete. We will submit our findings and recommendations, to the Governing Body, once the research has been completed.

**3. N.J.D.O.T. FY 2017 Municipal Aid Program Applications**

Typically, this time of the year, the N.J.D.O.T. is announcing the acceptance of applications for municipal aid funding for the following year. I believe that the announcement has not been made due to the depletion and non-replenishment of the funding in the Transportation Trust Fund. The State Legislature is, currently, considering options to replenish the funding.

As noted the previous applications for the improvements to Oak Avenue and Taunton Avenue

**4. Improvements to Hazel Avenue (NJDOT FY 2015 Funding)**

Governor Christie has frozen the Municipal Aid funds until the matter of the funding for the Transportation Trust Funds is resolved by the State Legislature and accepted by the Governor.

The N.J.D.O.T. has returned the signed Agreement for \$201,000 for the improvements to Hazel Avenue. A construction contract must be awarded by June 26, 2017.

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The requested amount of funding was \$236,000. The estimated construction cost is estimated to be \$210,627 and contract administration/materials testing costs are estimated to be \$9,000.

The N.J.D.O.T. Local Aid Office has informed me that we must complete and submit the bid plans and specifications to their office in July, 2016 and have the project bid and awarded in August, 2016.

**5. 2016 Street Improvements Program**

The Governing Body has allotted funds for the improvements to the following streets:

- a. Localized pavement area repairs along Taunton Avenue- Cooper Road to Clover Avenue;
- b. Repairs to settled pavement along Lester Avenue- Haddon Avenue to McClellan Avenue and along McClellan Avenue- Lester Avenue to Pine Avenue;
- c. Repairs to the settled pavement and curb at #340 Centaurian Drive;
- d. Repairs to the localized areas of the gutterlines of street within the Pinecrest section.

I am hopeful that we will have the bid documents prepared for a bid opening in early Fall, 2016.

**6. No Passing Zones Along Cooper Road**

I am performing the study to determine the limits for the no passing zones along this road. I expect to be submitting the report to the Governing Body for insertion into the amending traffic ordinance.

**7. Camden County Community Development Block Grant Funds**

The Country CDBG Program representative has questioned the status of the Township using the remaining funds, from previous funding, to complete the remaining projects at the Seniors Building. We have submitted a listing of the projects and expect to have them completed, in the near future.

**8. Collection and Hauling of Solid Waste, Recyclable Materials and Vegetation**

Bids were received, on May 18, 2016, for the carts for solid waste, recyclable materials and vegetation. The specifications noted that an award would occur, shortly after the opening of bids and require the delivery of the carts to the residents (for solid waste, recyclables and vegetation) and commercial establishments (for recyclables only), during the week of October 24, 2016.

One bid was received for the two automated trash trucks (to be used for the collection and hauling of solid waste, recyclables and vegetation) on June 23, 2016.

I strongly recommend that the award of the carts and trash trucks be made at the Council Meeting on July 11, 2016 as it is my intent to commence with automated collection, no later than the week of November 7, 2016.

9. **Purchase of Various Pieces of Equipment and Vehicles for the Public Works Department**

The Public Works Department is, currently, obtaining quotes for those items, which fall under the bid threshold. We will prepare bid documents for any items, which require the advertisement and opening of bids.

10. **Bate Avenue Site (Former Municipal Building and Administrative Building)**

We have authorized the sampling and testing for asbestos and lead for the building at 176 Bate Avenue. Once we receive the test results, we intended to include any necessary remediation work with the building demolition work, which we were planning on receiving quotes for said work. I believe the determination of whether the Township or the future purchaser will be responsible for the demolition will be made after the test results are evaluated.

At the recommendation of a realtor, we have prepared a concept plan, depicting a possible twin homes layout, for use when reviewing and considering this possible proposal. I believe that the matter of possible alternatives for the development of the site be discussed with the members of the Governing Body and Planning Board, during the reexamination of the Master Plan, in 2016.

11. **Re-Examination of the Master Plan**

The kick-off meeting with the County Planner was held on July 1, 2016. Representatives of the County Planning Office will be meeting with various department heads to discuss current matters and possible goals and objectives for the future. The County Planner expects to complete the re-examination report, within the next several months.

The re-examination process must be completed and the report adopted by the Planning Board, prior to the January 17, 2017 deadline, which is ten years since the last adoption of the master plan re-examination.

12. **Gas Main Replacement Project Throughout the Township**

South Jersey Gas Co. has requested that the Governing Body review the street opening fees for this large scale project. I will be preparing estimates for the full width pavement restoration (mill and overlay) for consideration by the Governing Body.

13. **Upgrade of Electric Lines Along Various Streets**

We have met with representatives of Atlantic City Electric to discuss the upgrade of electric lines along various streets, from the sub-station on Egg Harbor Road to the intersection of Katherine Avenue and Rt. 73.

Atlantic City Electric will be removing and trimming trees, along the route, to provide the necessary clearance to the new lines. As part of the tree removal and trimming process, Atlantic City Electric has agreed to remove

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the double truck tree, at the corner of Franklin Avenue and Grove Avenue. The property owner has consented to the removal of said tree.

**14. Consideration for Possible Restrictions for Certain Trucks Along Franklin Avenue**

Along with the County Planner and the Police Department, we are researching the possibility of restricting certain type trucks from travelling along Franklin Avenue.

**15. Improvements to the Municipal Building**

**a. Improvements to the Unfinished General Assembly Rooms**

I expected to complete the bid documents for the ceiling, the remainder of the ceiling lighting, HVAC system and reconfiguration of the fire suppression system in early 2015 for a bid opening in early Spring, 2015. At this time, I am not sure when we will be completing these documents. I am hopeful that we will be able to obtain bids for the installation in the 2016.

It has been determined that the Public Works staff will install the vinyl floor tiles, after the above mentioned, contracted work has been completed. The Public Works Department may, also, install the hung ceiling system.

**b. Irrigation and Landscaping**

The design for the irrigation system remains to be completed. I am hopeful that we will be able to have an irrigation contractor donate their design services. Otherwise, we must purchase design software to complete the task.

We were hopeful that we can include a rainwater recapturing system for irrigation use, which funding was requested in my request for capital funding in 2016. Due other projects, which are in immediate need of improvement, this project will not be funded in the current bond ordinance.

**c. Recoating of the Front Parking Area**

Due to the need to address higher priority projects, throughout the Township, funding for this project was not included in the current bond ordinance.

**16. Application for the Camden County Open Space/ Recreation Enhancement Funds for the Resurfacing of the Large Hockey Rink at R Robert T. Clyde Memorial Park**

An application has been submitted for the improvements to the surface of the large hockey rink. The County review staff has visited the rink, as part of their review of the application. It is my understanding that the review committee has submitted their recommendations for projects to the Freeholders for their acceptance and designation of funding. I believe that the Freeholders may be taking formal action at their July, 2016 meeting.

We are hopeful that the County will act favorably, regarding funding for this project.

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**17. Reconstruction of Basketball Court at Spruce Avenue Recreation Site (County Open Space Grant - \$25,000)**

The Governing Body has adopted the Bond Ordinance, appropriating funds to supplement the County Open Space funds so that this project can be completed in 2016.

I am, currently, evaluating the use of a geogrid reinforcement system, which would allow for the resurfacing of the court, rather than the costlier, reconstruction of the surface.

We expect to receive bids for this project, shortly after the Township funding is available.

**18. Ponding Along Gutterline of Hudson Avenue at 182 Patton Avenue**

As requested by Council President Morris, I have observed the conditions, where ponding is occurring along the edge of pavement, along Hudson Avenue. In order to determine the scope of the work to eliminate the ponding condition, we will take elevations of the existing pavement. I will, then, prepare a cost estimate for the necessary improvements for consideration by the Governing Body.

**19. Improvements to the Water Distribution System by Berlin Borough**

I believe that members of the governing bodies for both municipalities are in the process of scheduling a meeting to discuss the conditions and planned improvements to the water distribution system.

The Berlin Borough Water Operator has informed me that the Borough has received bids for the Katherine and Mt. Vernon Avenues water main loop/interconnection. He expects the Borough Governing Body to award the contract, in the immediate future.

**20. Municipal Certification for Future Federal Funded Projects**

We must obtain the information, from the N.J.D.O.T., for this program, in the immediate future. We will complete the necessary documents, with the assistance from Ms. Campisano, and submit the documents for Federal and State approval, in the near future.

**21. Storm Drainage Improvements**

**a. Lester Avenue Storm Drainage and Stormwater Management**

**1) Phase 1-Construction of Storm Inlets Piping and Temporary Stormwater Basin**

The Governing Body has adopted the Bond Ordinance, appropriating funds, for this project. We expect to bid this project, in the near future.

**2) Phase 2 – Extension of Storm Drainage to the Existing**

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Stormwater Management System within the Luke Avenue Recreation Complex

We must perform the land surveying and engineering design. I will be preparing a cost estimate for the construction for consideration for funding by the Governing Body.

It will be necessary to obtain an easement for the proposed storm drainage piping, which will be crossing the P.S.E.G. lands.

b. Kelley Drive Stormwater Basin Reconstruction

It is my understanding that the funds must be re-allocated for this project.

I do not see our department completing the bid documents until, some time, in late 2016/early 2017.

c. Mt. Vernon Avenue Storm Drainage at the Elementary School

No update to report.

d. Storm Drainage Issues with the Southwest Portion of the Township

I had reported to the Governing Body, some time ago that I am estimating that the overall construction cost for the necessary improvements is approximately \$11.8 million. I have requested a meeting with Congressman Norcross to discuss the possibility of receiving Federal funding, for this project. It may be worth requesting the assistance of the N.J.D.E.P., regarding this matter, as there was some interest raised by a representative that I had, recently, met with in October, 2015.

22. **Request to the Pinelands Commission for Redesignation of Lands to Regional Growth**

To date, I have not performed any additional work, regarding this matter. I have discussed the matter with representatives of Key Engineers, Inc. and have requested that they submit a proposal for the planning services. I recommend that the party(ies) requesting redesignation be responsible for the cost of the consulting planning services.

We have discussed the matter with the County Planner. He has recommended that the matter be mentioned in the Master Plan Reexamination Report, but addressed after the adoption of the report, separately.

23. **Tax Map Revisions**

We have not completed the revisions, which were required by the second review by the N.J. Treasury Department. Since it has been determined that the revisions are not necessary, as part of the revaluation, we have delayed the revisions so that more pressing projects can be completed by the department.

24. **Request to the N.J.D.O.T. for the Installation of a Traffic Signal at the Intersection of Route 73 and D'Angelo Drive.**

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In July, 2015, the Governing Body passed Resolution No. 2015-143 requesting the NJDOT consider the installation of a traffic control signal at the intersection. Several years ago, Wal-Mart offered to pay for the installation. I will be requesting that representatives of the N.J.D.O.T. meet with Township Officials to discuss this matter, in further detail.

This matter will be mentioned in the Master Plan Reexamination Report.

**25. Investigation for Sidewalk Along Oak Avenue**

The Governing Body discussed the possible construction of sidewalk along one side of the street, due to the narrow width of the roadway. I will be investigating this matter and will report to the Governing Body.

**26. Investigation of the Condition of Decorative Concrete Sidewalk Along Haddon Avenue**

It has been brought to my attention and I have observed spalling of the concrete sidewalk, in several areas. I have observed the condition and suspect that it may be a result of the application of de-icing materials, placed by the owners of the properties. I will continue to observe the conditions to see if they worsen, over time. It may be necessary to epoxy the spalled areas and apply a clear sealant to the concrete and brick surfaces.

**27. Conditions of the Haddon Avenue Bridge and Roadway**

I must contact the Chief Engineer, from N.J. Transit, requesting a formal letter, stating that the bridge structure is structurally sound.

**D. PUBLIC WORKS DEPARTMENT**

**1. Auction for Vehicles and Equipment**

I recommend that the Governing Body consider authorizing an electronic auction for various pieces of equipment, which is no longer operating or being used at the Public Works Department.

**2. Purchase of Vehicles and Equipment**

The Governing Body has appropriated funding for the purchase of various vehicles and equipment. We have received and are using the new lawnmowers. We are hopeful that the Governing Body awards the contract for the automated refuse vehicles. We intend to obtain quotes, bids and State contract prices for the other vehicles and pieces of equipment.

**3. Textile Recycling**

We have met with the textile recycler, which was recently appointed in Westville Borough. The recycler has offered to place new collection containers, within the Township, and pay a monthly amount for the container of per pound for the contents. We have been informed that there is an organization, which is performing the same service, within the Township, and donating funds to the Police Department for special programs.

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We would like to discuss this matter with members of the Governing Body, in further detail, to determine the best approach for this recycling program.

**4. Leaf Compost Material**

We are, currently, researching other possible sites for the disposal of the composted leaves. The Gloucester Township M.U.A. will accept leaves, but we must pay for the amount of leaves that we deliver to their facility.

**5. Possible Directory Signs for the Businesses Along Haddon Avenue, Between Zulker and Walker Avenues**

We have provided the businesses along Haddon Avenue with the prices for directory signs at three intersections.

**6. Hazard Mitigation Program Participation**

I believe that the Township Emergency Management Coordinate has completed the necessary plan. It is my understanding that the Governing Body will be holding the public meeting to present the plan and obtain comments, at the Council Meeting on July 11, 2016.

**SOLICITOR REPORT**

1. Water Agreement with Berlin Borough
2. C & M Repair Environmental
3. Bate Avenue Property Former Municipal Site
4. Red Barn & Berlin News
5. Michael Curtis V. Berlin Township
6. Estate of Carol Bowne
7. Open Public Records Act
8. Ordinance Revision
9. In Rem Tax Foreclosure
10. Municipal Building Roof Claim
11. Lester Avenue Drainage Project

**SECOND READING AND PUBLIC HEARING ORDINANCE 2016-12 OF THE TOWNSHIP OF BERLIN, COUNTY OF CAMDEN, AND STATE OF NEW JERSEY, REVISING, AMENDING AND SUPPLEMENTING CHAPTER 112 OF THE CODE OF THE TOWNSHIP OF BERLIN ENTITLED "Buildings, Unfit".**

**WHEREAS**, Chapter 112 of the Code of the Township of Berlin, entitled "Buildings, Unfit," regulates, buildings unfit for human habitation within the Township of Berlin; and

**WHEREAS**, it has been determined that Ch. 112 as written and the statutory demolition procedures are in conflict; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-2, the Governing Body is authorized to enact and amend ordinances as deemed necessary for the preservation of the public

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health, safety and welfare and as may be necessary to carry into effect the powers and duties conferred and imposed upon the Township by law; and

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

**SECTION 1:** Chapter 112, entitled “Buildings, Unfit,” Section 1, entitled “Definitions,” is hereby amended, revised and/or supplemented by deleting the term and definition of “Public Officer” and adding the following new definitions:

**ENFORCING OFFICER**

The municipal employee designated by the Governing Body as the person with authority to exercise the enforcement powers prescribed by this Chapter.

**HEARING OFFICER**

The municipal employee designated by the Governing Body as the person with authority to conduct hearings and to make determinations as a result thereof as prescribed by this Chapter.

**SECTION 2:** Chapter 112, entitled “Buildings, Unfit,” Section 3, entitled "Designation of enforcing officer," is hereby amended, revised and/or supplemented to read as follows:

**§112-3 Designation of enforcing officer and hearing officer**

- A. The Property Maintenance Official shall serve as the enforcing officer for purposes of enforcing the provisions of this Chapter.
- B. The Township Engineer shall serve as the hearing officer for purposes of conducting demolition hearings and making decisions thereon as provided for in this Chapter.

**SECTION 3:** Chapter 112, entitled “Buildings, Unfit,” Section 4, entitled "Complaint of unfit conditions; hearings," is hereby deleted in its entirety and replaced with a new Section 4 to read as follows

**§112-4 Complaint of unfit conditions; hearings**

Whenever a petition is filed with the enforcing officer by a public authority or by at least five residents of the Township of Berlin charging that any building is unfit for human habitation or occupancy or use, or whenever it appears to the enforcing officer (on his own motion) that any building is unfit for human habitation, the enforcing officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such building a complaint stating the charges in that respect and containing a notice that a hearing will be held before the hearing officer at a place therein fixed not less than seven days nor more than 30 days after the serving of said complaint. The owner and parties in interest shall be given the right to file an answer

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to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

**SECTION 4:** Chapter 112, entitled “Buildings, Unfit,” Section 5, entitled "Order by public officer," is hereby deleted in its entirety and replaced with the following new language:

**§112-5 Order to abate**

If, after issuance of the complaint and notice thereof and the hearing thereon required by Section 112-4, the hearing officer determines that the building under consideration is unfit for human habitation, occupancy or use, he or she shall state in writing his or her findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof and any parties in interest an order:

- A. Requiring the repair, alteration or improvement of the said building to be made by the owner, within a reasonable time as shall be set forth in the order or, at the option of the owner, to vacate or have said building vacated and closed within the times set forth in the order.
- B. If the building is in such a condition as to make it dangerous to the health and safety of persons on or near the premises, and the owner fails to repair, alter or improve the said building within the time specified in the order, then the owner shall be required to remove or demolish the said building within a reasonable time as specified in the said order.

**SECTION 5:** Chapter 112, entitled “Buildings, Unfit,” Section 9, entitled "Method of determining fitness," is hereby amended, revised and/or supplemented by deleting the term "public officer" and replacing it with the term "hearing officer" each time it appears.

**SECTION 6:** Chapter 112, entitled “Buildings, Unfit,” Section 10, entitled "Service of complaints and orders," is hereby amended, revised and/or supplemented by deleting the term "public officer" and replacing it with the term "enforcing officer" each time it appears.

**SECTION 7:** Chapter 112, entitled “Buildings, Unfit,” Section 11, entitled "Powers of public officer," is hereby deleted in its entirety and replaced with a new Section 11 to read as follows:

**§112-11 Powers of enforcing officer**

The enforcing officer is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Chapter, including the following powers in addition to any others granted by statute:

- A. To investigate the building conditions in the Township of Berlin in order to determine which buildings therein are unfit for human habitation or occupancy or use;

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- B. To enter upon premises for the purpose of making examinations, provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession; and
- C. To appoint and fix the duties of such agents and/or employees as he deems necessary to carry out the purposes of this Chapter.

**SECTION 8:** Chapter 112, entitled “Buildings, Unfit,” Section 12, entitled "Adoption of State Housing Code," is hereby amended, revised and/or supplemented by renumbering same to a new Section 13.

**SECTION 9:** Chapter 112, entitled “Buildings, Unfit,” is hereby amended, revised and/or supplemented by adding a new Section 12, entitled "Powers of hearing officer," to read as follows:

**§112-12 Powers of hearing officer**

The Hearing Officer is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Chapter, including the power to administer oaths and affirmations, examine witnesses and receive evidence.

**SECTION 10:** Except as set forth in Sections 1 through 9 above, the balance of Chapter 112 shall not be affected by this Ordinance.

**SECTION 11:** All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 12:** 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 13:** This Ordinance shall take effect twenty (20) days after final adoption and publication as required by law.

Motion by Council President Morris, 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 2016-12.

Stafford Miller Resident of Berlin Township asked who would be responsible for covering the cost of a demolished property.

Mayor Magazzu replied that the home owner would be responsible.

No more comments were to be heard.

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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 2016-12.

Motion by Council President Morris second by Councilman Epifanio to adopt Ordinance 2016-12. Ordinance approved by call of the roll, five members present voting in the affirmative.

**SECOND READING AND PUBLIC HEARING ORDINANCE 2016-13 OF THE TOWNSHIP OF BERLIN, COUNTY OF CAMDEN, AND STATE OF NEW JERSEY, AMENDING THE HOURS OF OPERATION RESTRICTION FOR SEXUALLY ORIENTED BUSINESSES SET FORTH IN ORDINANCE 2015-10.**

**WHEREAS**, sexually oriented businesses are regulated by Chapter 268 of the Code of the Township of Berlin (“Township”); and

**WHEREAS**, on December 14, 2015, the Township adopted Ordinance 2015-10, which repealed Chapter 268 as it then existed and replaced it with a new Chapter 268; and

**WHEREAS**, on or about January 28, 2016, the owners of the Red Barn Bookstore and Berlin News Agency, both of which qualify as sexually oriented businesses under Chapter 268, filed suit in the Superior Court of New Jersey challenging the constitutionality of the hours of operation restriction set forth in Section 268-8(D) on First Amendment grounds (“the Litigation”), notwithstanding the fact that (1) municipalities are specifically authorized pursuant to N.J.S.A. 2C:33-12.2(c) to restrict the hours of operation of sexually oriented businesses; and (2) similar regulations have been upheld as valid time, place and manner restrictions by numerous courts throughout the country, including the District Court of New Jersey and Third Circuit Court of Appeals; and

**WHEREAS**, due to the uncertainties and costs and expenses associated with litigation, the Governing Body has determined that it is in the best interests of the residents and taxpayers to resolve the Litigation by amending the hours of operation restriction; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-2, the Governing Body is authorized to enact and amend ordinances as deemed necessary for the preservation of the public health, safety and welfare and as may be necessary to carry into effect the powers and duties conferred and imposed upon the Township by law;

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

**SECTION 1:** Ordinance 2015-10 is hereby amended and revised to provide as follows:

**CHAPTER 268 – SEXUALLY ORIENTED BUSINESSES**

**Article I - General Provisions**

§ 268-1. Purpose; findings. [NO CHANGE]

§ 268-2. Definitions. [NO CHANGE]

**Article II – Application/License**

§ 268-3. Approval or disapproval of application. [NO CHANGE]

§ 268-4. Licensing requirements. [NO CHANGE]

§ 268-5. License term; transferability; renewal. [NO CHANGE]

§ 268-6. Revocation of license. [NO CHANGE]

§ 268-7. Fees. [NO CHANGE]

**Article III – Regulations**

§ 268-8. Regulations.

Every licensee of an adult use as defined in this chapter shall comply with the following regulations as applicable:

A. [NO CHANGE]

B. [NO CHANGE]

C. [NO CHANGE]

D. The hours of operation for any sexually oriented business or adult use as defined in this Chapter shall not be earlier than 9:00 a.m. nor later than 12:00 midnight, prevailing time, on weekdays and Saturdays, and no earlier than 12:00 noon nor later than 12:00 midnight, prevailing time, on Sundays.

E. [NO CHANGE]

F. [NO CHANGE]

G. [NO CHANGE]

H. [NO CHANGE]

§ 268-9. Location restrictions. [NO CHANGE]

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**Article IV – Enforcement**

**§ 268-10. Violations and penalties. [NO CHANGE]**

**SECTION 2:** Except as set forth in Sections 1 above, the balance of Ordinance 2015-10 shall not be affected by this Ordinance.

**SECTION 3:** This Ordinance, which does not alter or amend any regulation, restriction and/or licensing requirement of any previous version of this Chapter, shall apply retroactively to any currently existing person and/or business who has heretofore operated pursuant to any previous version of this Chapter and/or in accordance with any license issued thereunder.

**SECTION 4:** All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 5:** 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 6:** This Ordinance shall take effect twenty (20) days after final adoption and publication as required by law.

Motion by Councilman McIntosh, 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 2016-13.

No comments were to be heard.

Motion by Council President Morris, second by Councilman McIntosh 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 2016-13.

Motion by Council President Morris second by Councilman Epifanio to adopt Ordinance 2016-13. Ordinance approved by call of the roll, five members present voting in the affirmative.

**SECOND READING AND PUBLIC HEARING ORDINANCE 2016-14 OF THE TOWNSHIP OF BERLIN, COUNTY OF CAMDEN, AND STATE OF NEW JERSEY, REVISING, AMENDING AND SUPPLEMENTING CHAPTER 320 OF THE CODE OF THE TOWNSHIP OF BERLIN ENTITLED "VEHICLES AND TRAFFIC".**

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**WHEREAS**, Chapter 320 of the Code of the Township of Berlin, entitled “Vehicles and Traffic” regulates, generally, operation, parking and use of vehicles on public and private roadways and properties within the Township of Berlin; and

**WHEREAS**, Chapter 320 has not been substantively reviewed, revised and/or updated since its adoption in 1995; and

**WHEREAS**, the Township Engineer of the Township of Berlin has made recommendations to update Chapter 320 to current standards applicable to such matters and to reflect existing conditions regarding traffic, parking and/or use of vehicles within the Township; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-2, the Governing Body is authorized to enact and amend ordinances as deemed necessary for the preservation of the public health, safety and welfare and as may be necessary to carry into effect the powers and duties conferred and imposed upon the Township by law; and

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

**SECTION 1:** Chapter 320, entitled “Vehicles and Traffic,” is hereby amended, revised and/or supplemented by creating new Articles I through IV and combining, deleting and/or renaming certain sections of the Chapter as shown in the following tables numbered (1) and (2):

(1) New Articles and Section Numbers and/or Titles

<u>New Article Number</u>	<u>Section Numbers</u>	<u>Article/Section Title</u>
Article I	320-1	General Provisions
	320-2	Definitions; usage
	320-2	Observance of lawful orders and posted traffic regulations
	320-3	Authority to close streets
	320-4	Parking regulations not exclusive
	320-5	Severability
Article II	320-6	Repealer; Preservation of authority to enforce
		Parking Restrictions
	320-7	Police emergency and/or state of emergency
	320-8	Snow emergencies
	320-9	Traffic control during street construction, maintenance operations and utility work
	320-10	Parking time limited on certain streets
	320-11	Parking prohibited during street cleaning
	320-12	Parking prohibited at all times on certain streets
320-13	Disabled vehicles	

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	320-14	Parking of certain vehicles prohibited
	320-15	Parking in front yards
Article III		Vehicle and Travel Limitations
	320-16	Vehicle weight limits designated
	320-17	Routes for trucks over 5 tons
	320-18	One-way streets
	320-19	Through streets
	320-20	Stop intersections
	320-21	Yield intersections
	320-22	Do Not Block the Box Intersections
	320-23	Turn prohibitions
	320-24	No turn on red
	320-25	Bus stops
	320-26	Lane use reservations
	320-27	Handicapped parking
	320-28	Regulation of movement and parking on public and private property
	320-29	No-passing zones
	320-30	Speed limits
Article IV		Administration and Enforcement
	320-31	Persons Authorized to Enforce
	320-32	Towing and/or Removal of Vehicles in Violation
	320-33	Violations and Penalties

(2) Disposition List

<u>Old Section Number</u>	<u>New Section Number</u>
320-1	320-1
320-2	320-3
320-3	320-2
320-4	320-32
320-5	320-33
320-6	320-5
320-7	320-6
320-8	320-4
320-9	320-7
320-10	320-8
320-11	320-8
320-12	320-9
320-13	DELETED
320-14	320-10
320-15	320-11
320-16	320-12
320-17	DELETED

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320-18	320-13
320-19	320-14
N/A	320-15 (NEW)
320-20	320-17
320-21	320-16
320-22	320-18
320-23	320-19
320-24	320-20
320-25	320-21
N/A	320-22 (NEW)
320-26	320-23
320-27	320-24
320-28	DELETED
320-29	320-25
320-30	DELETED
320-31	320-26
320-32	320-27
320-33	320-28
320-34	320-29
320-35	320-30
N/A	320-31 (NEW)
N/A	320-32
N/A	320-33

**SECTION 2:** Chapter 320, Article I, entitled "General Provisions," Section 320-1, entitled "Definitions; Usage," is hereby revised, amended and/or supplemented to read as follows:

**320-1 Definitions; Usage**

- A. As used in this Chapter, except where a specific definition is set forth elsewhere herein, the following words shall have the following meanings:

**CHIEF OF POLICE or CHIEF**

The Chief of Police of the Berlin Township Police Department, or his or her designee.

**DEPARTMENT OF TRANSPORTATION or NJDOT**

The Department of Transportation of the State of New Jersey and/or any division, bureau or agency therein or thereof.

**DISABLED VEHICLE**

A vehicle that is or has been rendered inoperable and/or is otherwise incapable of being moved under its own power and/or by its own means. As used herein, the term "disabled vehicle" does not include a "junk vehicle" as that term is defined in Section 249-4 of this Code.

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**DRIVEWAY**

A defined paved surface or durable wearing surface, such as crushed stone, brick, or other such materials, providing vehicular access to a street and designated off-street parking space(s). A driveway is not a road, street, boulevard, highway, parkway, lawn or landscaped area. If the driveway connects to a curbed street, each end of the driveway connecting to the street must have a curb cut.

**FRONT YARD**

That area of a property from the front line of a building or structure located on the property to the curb or street, whichever is applicable.

**GOVERNING BODY**

The Mayor and Township Council of the Township of Berlin.

**MUNICIPAL COURT**

The Berlin Township Municipal Court or such other court the Governing Body has designated as having the authority of a municipal court for the Township of Berlin.

**TOWNSHIP**

The Township of Berlin.

**TOWNSHIP ENGINEER**

The Engineer of the Township of Berlin as appointed and/or designated by the Governing Body.

- B. Any words and phrases used in this Chapter which are not specifically defined herein but are specifically defined in Title 39 of the Revised Statutes of the State of New Jersey shall have the meanings ascribed to them in Title 39.
- C. Whenever certain hours are identified in this Chapter, they shall mean either Eastern Standard Time or Eastern Daylight Savings Time, as the case may be.

**SECTION 2:** Chapter 320, Article I, entitled "General Provisions," Section 320-2, entitled "Observance of lawful orders and posted traffic regulations" (formerly Section 320-3), is hereby revised, amended and/or supplemented to read as follows:

**320-2 Observance of lawful orders and posted traffic regulations**

It shall be unlawful for any person operating a vehicle on any street or portion thereof within the Township of Berlin to disobey and/or fail to follow the order, direction or other signal of any police officer or other properly authorized official of the Township of Berlin or to disobey or fail to follow the traffic instructions set forth on any properly posted traffic control device or traffic signal. Any person found guilty of violating any provision of this Chapter shall be subject to the penalties set forth in Article IV hereof.

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**SECTION 3:** Chapter 320, Article I, entitled "General Provisions," Section 320-3, entitled "Authority to close streets" (formerly Section 320-2), is hereby revised, amended and/or supplemented to read as follows:

**320-3 Authority to close streets**

- (A) The Chief of Police is hereby authorized to provide by regulation for the closing of any street or portion thereof to motor vehicle traffic on any day or days during specified hours whenever he finds that such closing is necessary for the preservation of the public health, safety or welfare. In the event of such closure, proper warning signs advising of such closure shall be posted on the affected street or streets, or any closed portion thereof, during the time same is closed pursuant to this Section.
- (B) Any regulation adopted that mandates the closing of any street or portion thereof for a period in excess of 48 consecutive hours shall not be effective unless and until it has been submitted to and approved by the Commissioner of the Department of Transportation.

**SECTION 4:** Chapter 320, Article I, entitled "General Provisions," Section 320-4, entitled "Parking regulations not exclusive" (formerly Section 320-8), is hereby revised, amended and/or supplemented to read as follows:

**320-4 Parking regulations not exclusive**

Notwithstanding anything herein, the provisions of this Chapter limiting and/or restricting parking shall be construed in addition to and not to the exclusion of statutory restrictions regarding same as set forth in N.J.S.A. 39:4-138 and/or any other applicable statute or regulation, and the operation of any vehicle on or upon the streets of the Township of Berlin in accordance with the requirements of this Chapter shall not relieve any person operating such vehicle from the obligation to obey said statutes and/or regulations as applicable.

**SECTION 5:** Chapter 320, Article I, entitled "General Provisions," Section 320-6, entitled "Repealer" (formerly Section 320-7), is hereby revised, amended and/or supplemented to read as follows:

**320-6 Repealer; Preservation of authority to enforce**

All ordinances or parts of ordinances in conflict with or inconsistent with the provisions of this Chapter are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act committed or done in violation of any previous version of this Chapter or any ordinance hereby repealed prior to the effective date hereof.

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**SECTION 6:** Chapter 320, Article II, entitled "Parking Restrictions," Section 320-7, entitled "Police emergency and/or state of emergency" (formerly Section 320-9), is hereby revised, amended and/or supplemented to read as follows:

**320-7 Police emergency and/or state of emergency**

- A. Upon declaration of a temporary police emergency or general state of emergency, there shall be no parking upon streets or sections of streets where temporary "POLICE EMERGENCY" and/or "NO PARKING" signs are displayed. The Chief of Police, or his or her designee, and the Township Engineer shall have the authority to declare an emergency as he or she deems appropriate, and to direct the posting of such signs as may be required by law to effectuate same, including but not limited to in the event of accidents, fire, public celebrations or weather conditions, other than snow emergencies governed by Section 320-10 of this Chapter, and such other emergencies that dictate or require avoidance of hazards or other conditions which interfere with the free flow of traffic.
- B. Notice that any temporary signs are being or will be posted pursuant to this Section shall be given to the operator and/or owner of any vehicle which has been parked prior to the declaration of such emergency and prior to the posting of such signs.

**SECTION 7:** Chapter 320, Article II, entitled "Parking Restrictions," Section 320-8, entitled "Snow emergencies" (formerly Sections 320-10 and 320-11), is hereby revised, amended and/or supplemented to read as follows:

**320-8 Snow Emergencies**

- A. Snow Emergency; Duration.
  - (1) Notwithstanding anything to the contrary in Section 320-6, and in addition thereto, a state of emergency is declared to exist within the municipal limits of the Township of Berlin whenever there shall be a snowfall of two (2) inches or more.
  - (2) In the event a snow emergency is in effect as set forth above, it shall be presumed to continue for a period of 24 hours after the cessation of snowfall, except that the snow emergency shall continue on those streets of the Township of Berlin from which the snow has not been removed until such time as the snow has been removed, provided that any lawfully required temporary signs are placed or posted by the Township of Berlin indicating that parking is prohibited on said streets while the Township is engaged in or is about to engage in the clearance or removal of snow therefrom. Said temporary signs prohibiting parking shall be posted when work is about to commence and shall be removed when the work is completed or upon the expiration of the snow emergency period established herein, whichever event occurs later.

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- (3) Notwithstanding anything in this Section to the contrary, in the event the Chief of Police, his or her designee and/or the Township Engineer shall determine at any time following the expiration of a snow emergency that parking on any street or streets will interfere with the normal flow of traffic, the snow emergency shall be deemed to be extended and the temporary no parking signs may remain for such additional period of time as the Chief of Police and/or Township Engineer determine that the conditions are such that parking on any such street or streets will no longer interfere with the normal flow of traffic.

**B. Parking prohibitions.**

- (1) In order to afford the Township the opportunity to clear the streets of snow and to open the highway to traffic, during the period of any snow emergency as defined in Section 320-7(A), no vehicle, however propelled, shall be allowed to stand or park, whether attended or not, upon any street of the Township of Berlin, except for picking up or discharging passengers in the case of an omnibus or for picking up or delivering essentials or commodities in the case of any other vehicle.
- (2) Notwithstanding anything to the contrary Section 320-7(B)(1), and in addition thereto, during a snow emergency no vehicles shall be parked on either side of the following designated streets or highways, for the entire length of roadway identified herein, for any reason and at any time and regardless of whether a temporary no parking sign has been posted:

<b>Name of Street</b>	<b>Sides</b>	<b>Location</b>
Bate Avenue	Both	Entire length
Chestnut Avenue	Both	Entire length
Commerce Lane	Both	Entire length
Cushman Avenue	Both	Entire Length
Day Avenue	Both	Eastern edge of Township Property to Route 73
Fairview Avenue	Both	Entire length
Franklin Avenue	Both	Entire length
Grove Avenue	Both	Entire length
Harker Avenue	Both	Entire length
Heights Avenue	Both	Entire length
Lester Avenue	Both	Entire length
Lucas Avenue	Both	Entire length
Minck Avenue	Both	Entire length
Mt. Vernon Avenue	Both	Entire length
Taunton Avenue	Both	Entire length
Veteran's Avenue	Both	Entire length
Washington Avenue	Both	Entire length

**C. Removal of vehicles.**

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Any unoccupied vehicle parked or standing in violation of this section shall be deemed a nuisance and a menace to the safe and proper regulation of traffic and shall be subject to the towing and/or removal provisions of Article IV of this Chapter.

**SECTION 8:** Chapter 320, Article II, entitled "Parking Restrictions," Section 320-11, entitled "Parking prohibited during street cleaning" (formerly Section 320-15), is hereby revised, amended and/or supplemented to read as follows:

**320-11 Parking prohibited during street cleaning**

No person shall cause or permit to be parked any motor vehicle upon any of the streets or parts of streets within the Township during the times specified for street cleaning as same are published in the Township newsletter and/or Township website, as same may be amended from time to time in the sole discretion of the Director of the Berlin Township Department of Public Works

**SECTION 9:** Chapter 320, Article II, entitled "Parking Restrictions," Section 320-12, entitled "Parking prohibited at all times on certain streets" (formerly Section 320-16), is hereby revised, amended and/or supplemented by deleting all references to "Franklin Avenue" and replacing them with the following new reference:

<b>Name of Street</b>	<b>Sides</b>	<b>Location</b>
Franklin Avenue	Both	Entire length from Route 73 to the Berlin Township/Berlin Borough corporate line

**SECTION 10:** Chapter 320, Article II, entitled "Parking Restrictions," Section 320-13, entitled "Parking prohibited at all times on certain streets" (formerly Section 320-18), is hereby revised, amended and/or supplemented to read as follows:

**320-13 Disabled vehicles**

No person shall park a disabled vehicle, as defined herein, or a junk vehicle, as defined in Section 249-4 of this Code, upon any street within the Township of Berlin.

**SECTION 11:** Chapter 320, Article II, entitled "Parking Restrictions," Section 320-14, entitled "Parking of certain vehicles prohibited" (formerly Section 320-19), is hereby revised, amended and/or supplemented to read as follows:

**320-14 Parking of certain vehicles prohibited**

No person shall park a truck over five (5) tons' gross weight, a school bus or any other type of bus, a recreational vehicle, camper, boat or trailer upon any of the streets of the Township of Berlin overnight.

**SECTION 12:** Chapter 320, Article II, entitled "Parking Restrictions," is hereby revised, amended and/or supplemented to add a new Section 320-15, entitled "Parking in front yards," to read as follows:

**320-15 Parking in front yards**

- A. Motor vehicle, camper, trailer or boat five tons or less.

No person shall park a motor vehicle of any type or a camper, trailer or boat with a gross weight of five tons or less and/or a length of less than 20 feet on or upon a front yard of a property, other than in a driveway.

- B. Motor vehicle, camper, trailer or boat over five tons.

No person shall park a motor vehicle of any type or a camper, trailer or boat with a gross weight of more than five tons and/or a length of greater than 20 feet on or upon the front yard of a property. Such motor vehicles, campers, trailers or boats may be parked behind the front yard or applicable front yard setback line pursuant to the zoning for the area, whichever is further from the street, provided such vehicles and boats are adequately buffered from the view of adjacent property with a row of arborvitae at least eight feet high, or other similar provisions for screening and buffering which is acceptable to the Township, for the full length of the motor vehicle, camper, trailer or boat. Such motor vehicles, campers, trailers or boats shall not be parked in the driveway of a property between the hours of 9:00 p.m. and 6:00 a.m.

- C. No parking in public streets.

Notwithstanding anything in this chapter to the contrary, parking of any camper, trailer or boat on public streets shall be strictly prohibited at all times.

- D. Temporary parking permit.

The owner of a property, or a member of the owner's household, may apply for a temporary parking permit for motor vehicles, campers, trailers or boats for a parking arrangement inconsistent with the aforementioned restrictions. The owner or member of the owner's household shall make application to the Police Department of the Township of Berlin for such permits. The information on the permit shall contain the name and address of the property owner, the name and address of the member of the owner's household receiving such permit, where applicable, the make, model, and vehicle identification number or other such identification of the vehicle, the date of issue, and the date of expiration, as well as the signature of an authorized member of the Police Department. Permits may be issued by the Police Department for one-week periods of time. No owner or member of the owner's household shall receive more than six one-week permits per year, which may be issued consecutively, for a maximum period of six weeks per

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year. The parking permit shall be prominently displayed on or in the vehicle in such a manner that the permit is protected from the weather and may be viewed by any person.

**SECTION 13:** Chapter 320, Article III, entitled "Vehicle and Travel Limitations," Section 320-17, entitled "Routes for trucks over five tons" (formerly Section 320-20), is hereby revised, amended and/or supplemented to read as follows:

**320-17 Routes for trucks over five tons**

In accordance with N.J.S.A. 40:67, as same may be amended from time to time, the streets or parts of streets identified in Section 320-19 are hereby designated as routes for vehicles over five (5) tons. All trucks having a combined registered gross weight of vehicle plus load in excess of five (5) tons shall be excluded from all streets except for those streets listed in Section 320-19 which form a part of the system of truck routes. Vehicles will be permitted on all streets for the purpose of the pickup and delivery of materials.

**SECTION 14:** Chapter 320, Article III, entitled "Vehicle and Travel Limitations," Section 320-19, entitled "Through streets" (formerly Section 320-23), is hereby revised, amended and/or supplemented by amending the following street references as follows:

<b>Name of Street</b>	<b>Limits</b>
Centurian Drive	From Clover Avenue to Chestnut Avenue
Division Street/Spruce Street	From Larch Avenue to Chestnut Avenue
Chestnut Avenue (fka Maple)	From Berlin Township/Berlin Borough corporate to Cooper Road (CR 713)
Chestnut Avenue (fka Maple)	From Cooper Road (CR 713) to easterly most terminus
Magnolia Avenue (fka Second Street)	From Cushman Avenue to Chestnut Avenue

**SECTION 15:** Chapter 320, Article III, entitled "Vehicle and Travel Limitations," is hereby revised, amended and/or supplemented by adding a new Section 320-22, entitled "Do Not Block the Box Intersections" as follows:

**320-22 Do Not Block the Box Intersections**

The following intersections shall be marked on the ground as "Do Not Block the Box" intersections and no driver shall enter said marked intersections unless there is sufficient space on the other side of the intersection to accommodate the vehicle without obstructing the passage of other vehicles or pedestrians:

**Intersections**

Franklin Avenue & Grove Avenue  
Washington Avenue & Mt. Vernon Avenue

**SECTION 16:** Chapter 320, Article III, entitled "Vehicle and Travel Limitations," Section 320-23, entitled "Turn prohibitions" (formerly Section 320-26), is hereby revised, amended and/or supplemented to read as follows:

**320-23 Turn prohibitions**

No person shall make a turn at any location listed below in violation of the prohibited movement as described herein:

<b>Intersection</b>	<b>Turn Prohibited</b>	<b>Movement Prohibited</b>
Minck & Walker Avenues	Left	From Minck Avenue onto Walker Avenue
Walker & Veteran's Avenues	Left	From Walker Avenue onto Veteran's Avenue
Route 73 & Jackson Road	Right	From Route 73 southbound to Jackson Road westbound

**SECTION 17:** Chapter 320, Article III, entitled "Vehicle and Travel Limitations," Section 320-24, entitled "No turn on red" (formerly Section 320-27), is hereby revised, amended and/or supplemented to read as follows:

**320-24 No turn on red**

No person shall make a right turn on the red signal at any of the following locations:

<b>Intersection</b>	<b>Movement Prohibited</b>
Franklin Avenue & Route 73	No right turn on red between 7:00A.M. and 7:00P.M.
Franklin Avenue & Haddon Road	No right turn on red from Franklin Avenue eastbound onto Haddon Avenue southbound

**SECTION 18:** Chapter 320, Article III, entitled "Vehicle and Travel Limitations," Section 320-25, entitled "Bus stops" (formerly Section 320-29), is hereby revised, amended and/or supplemented to read as follows:

**320-25 Bus stops**

The following locations are hereby designated as bus stops:

<b>Street</b>	<b>Location</b>
Walker Avenue	Northeast side, 180 feet northwest of Veteran's Avenue

**SECTION 19:** Chapter 320, Article III, entitled "Vehicle and Travel Limitations," Section 320-27, entitled "Handicapped Parking" (formerly Section 320-32), is hereby revised, amended and/or supplemented to read as follows:

**320-27 Handicapped parking**

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A. Handicapped parking in municipal and/or municipally owned and operated parking lots and Board of Education property.

1. In accordance with the provisions of N.J.S.A. 39:4-197, as same may be amended from time to time, the following off-street parking yards and Board of Education property designated herein and shown on a sketch maintained in the office of the Township Clerk and NJDOT are hereby established as handicapped parking areas:

Property	Number of Spaces
Berlin Township Municipal Complex 135 Route 73 South, West Berlin	5
John F. Kennedy School Mt. Vernon Avenue, West Berlin	4
Dwight D. Eisenhower School Grove Avenue, West Berlin	4
Berlin Township Board of Education Building Grove Avenue, West Berlin	1

2. The parking spaces and/or areas designated in Section 320-32(B)(1) are for use by persons who have been issued special identification cards, plates or placards issued by the New Jersey Motor Vehicle Commission, or a temporary placard issued by the Chief of Police. No other persons shall be permitted to park in these spaces.

B. [RE-LETTERED FROM C WITH NO OTHER CHANGE]

C. [RE-LETTERED FROM C WITH NO OTHER CHANGE]

D. The owners of the premises referred to in Sections C and D of this Section 320-27 shall provide and install signs and pavement markings for each parking space reserved for the use of handicapped persons, which signs and markings shall be in accordance with the Manual on Uniform Traffic Control Devices. The cost of procurement and installation of the signs and pavement markings shall be the responsibility of the owner of said property. The owner shall, subsequent to initial procurement and installation, maintain such signs and pavement markings in good condition at no cost or expense to the Township of Berlin. The owner shall be responsible for the repair, restoration or replacement of same, including without limitation the replacement of any such sign to reflect current statutory penalties within thirty (30) days of any change in said penalty amount.

**SECTION 20:** Chapter 320, Article III, entitled "Vehicle and Travel Limitations," Section 320-28, entitled "Regulation of movement and parking on public and private property" (formerly Section 320-33), is hereby revised, amended and/or supplemented to read as follows:

**320-28 Regulation of movement and parking on public and private property**

- A. All movement of traffic and parking on the public and private property described herein shall be subject to the regulations and/or controls set forth in this Section 320-27. Except as otherwise provided hereinbelow, and in addition thereto, all movement of traffic on such property shall be subject to the following uniform controls and/or regulations in accordance with the provisions of N.J.S.A. 39:4-197, as same may be amended from time to time:
  - 1. All vehicles must park in the designated area(s) between the painted lines.
  - 2. The speed limit in all directions of traffic in any parking lot shall be 15 M.P.H.
  - 3. Any vehicle parked in a space reserved for parking of certain vehicles shall be properly identified as authorized to park in such reserved parking space.
  - 4. Any vehicle parked in violation of any provision of this Section 320-27 shall be subject to the violations and penalties set forth in Article IV of this Chapter.
- B. Regulation of movement and parking of traffic on municipal property and Board of Education property.
  - 1. Berlin Township Municipal Complex, 135 Route 73 South, West Berlin
    - (a) Stop intersections. Pursuant to the provisions of N.J.S.A. 39:4-140, as same may be amended from time to time, the following intersections within the Municipal Complex are hereby designated as stop intersections and stop signs shall be provided therein:

<b>Intersection</b>	<b>Stop Sign On</b>
Exit drive for front parking area at N.J.S.H. Route 73	Exit drive
Exit drive for front parking area at Day Avenue	Exit drive
One-way drive from rear parking at front parking area	One-way drive
Exit drive from rear parking area at Day Avenue	Exit drive

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Tax Collector's Office drive-up lane                      Tax Collector's drive  
at the main aisle for the rear parking area

- (b) Reserved parking. This parking lot has reserved parking for certain vehicles which spaces are marked as such.

2. Berlin Township Schools Administration Building, 225 Grove Avenue, West Berlin

- (a) The speed limit for both directions of travel on Resource Way shall be limited to 15 MPH for the entire length thereof.
- (b) The following described streets or parts thereof are hereby designated as one-way streets in the direction indicated:

<b>Street</b>	<b>Direction</b>	<b>Limits</b>
Resource Way	South	Entire length

- (c) Pursuant to the provisions of N.J.S.A. 39:4-140, as same may be amended from time to time, the following intersections are hereby designated as stop intersections and stop signs shall be installed thereon:

<b>Intersection</b>	<b>Stop Sign On</b>
Resource Way and Washington Avenue	Resource Way

3. Dwight D. Eisenhower School, 235 Grove Avenue, West Berlin

- (a) The speed limit for both directions of travel on Eisenhower Way shall be limited to 15 MPH for the entire length thereof.
- (b) The following described streets or parts thereof are hereby designated as one-way streets in the direction indicated:

<b>Street</b>	<b>Direction</b>	<b>Limits</b>
Eisenhower Way	Counterclockwise	Entire length

- (c) No person shall stop or stand a vehicle during the hours specified below on any day upon any of the following streets or parts thereof:

<b>Street</b>	<b>Side</b>	<b>Hours</b>	<b>Location</b>
Eisenhower Way	East	All	Entire length

- (d) The following locations are hereby designated as bus stops. No vehicle other than an omnibus picking up or discharging passengers shall be permitted to occupy said location during the hours indicated:

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<b>Street</b>	<b>Hours</b>	<b>Location</b>
Eisenhower Way	All	As per site plan

- (e) Pursuant to the provisions of N.J.S.A. 39:4-140, as same may be amended from time to time, the following intersection and stop sign shall be installed thereon:

<b>Intersection</b>	<b>Stop Sign On</b>
Eisenhower Way and Grove Avenue	Exist of Eisenhower Way

4. John F. Kennedy School, 228 Mt. Vernon Avenue, West Berlin

- (a) The speed limit for both directions of travel on J.F. Kennedy Drive shall be limited to 15 MPH for the entire length thereof.
- (b) The following described streets or parts thereof are hereby designated as one-way streets in the direction indicated:

<b>Street</b>	<b>Direction</b>	<b>Limits</b>
J.F. Kennedy Drive	Counterclockwise	Entire length

- (c) No person shall stop or stand a vehicle during the hours specified below on any day upon any of the following streets or parts thereof:

<b>Street</b>	<b>Side</b>	<b>Hours</b>	<b>Location</b>
J.F. Kennedy Drive	West	All	Entire length

- (d) The following locations are hereby designated as bus stops. No vehicle other than an omnibus picking up or discharging passengers shall be permitted to occupy said location during the hours indicated:

<b>Street</b>	<b>Hours</b>	<b>Location</b>
J.F. Kennedy Drive	All	As per site plan

- (e) On an annual basis, in August each year, the Chief of Police shall issue 10 parking permit decals to be distributed by the J.F. Kennedy school officials, in their sole discretion, for use at the J.F. Kennedy school premises which decals shall remain effective for the upcoming school year.

- (f) Restricted parking.

The following restrictions shall apply between the hours of 8:00A.M. to 9:00A.M. and 2:00P.M. to 4:00P.M., Monday through Friday, on any and all school days:

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- (i) only those vehicles which have been issued a parking permit decal in accordance with this section shall be permitted to park in designated parking areas and spaces; and
- (ii) only the following vehicles are permitted to enter J.F. Kennedy Drive:
  - (A) school buses;
  - (B) vehicles displaying a parking permit decal issued in accordance with this section; and
  - (C) vehicles with handicapped license tags or placards, provided the driver is transporting a handicapped student, employee or visitor to the school or is accessing the drive for the purpose of utilizing the handicapped parking spaces. Use of a handicapped license tag or placard to enter the drive for the sole purpose of transporting a student, employee or visitor to school who is not handicapped shall be a violation of this section subject to the penalty provisions set forth in Article IV of this Chapter.
- (g) Pursuant to the provisions of N.J.S.A. 39:4-140, as same may be amended from time to time, the following intersection and stop sign shall be installed thereon:

<b>Intersection</b>	<b>Stop Sign On</b>
J.F. Kennedey Drive and Mt. Vernon Avenue	Exit of J.F. Kennedy Drive
Parking area along the rear of the building and Washington Avenue	Exist lane of parking area

C. Regulation of the movement and parking of traffic on certain private property.

In accordance with the provisions of N.J.S.A. 39:5A-1, as same may be amended from time to time, the regulations of Subtitle 1 of Title 39 shall be applicable to the properties listed below in accordance with the provisions hereof. To the extent not otherwise set forth herein, limitations and/or restrictions regarding parking, speed limits, stop signs and intersections for each property identified herein shall be enforced as shown on the last approved site plan on file for each property.

- 1. Greenway Village Apartments, 208 Route 73, West Berlin.
  - (a) The speed limit for both directions of travel on Greenway Drive and North Drive shall be limited to 15 MPH for the entire lengths thereof.

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- (b) The following intersections are hereby designated as stop intersections and stop signs shall be installed thereon:

<b>Intersection</b>	<b>Stop Sign On</b>
Greenway Drive and North Drive	Greenway Drive

- (c) No person shall stop or stand a vehicle during the hours specified below on any day upon any of the following streets or parts thereof:

<b>Street</b>	<b>Side</b>	<b>Hours</b>	<b>Location</b>
All Drives	Both	All	Entire length

2. Heritage Court Apartments, Blaine and Harrison Avenues, West Berlin.

- (a) The speed limit for both directions of travel on East Drive and West Drive shall be limited to 15 MPH for the entire lengths thereof.
- (b) The following intersections are hereby designated as stop intersections and stop signs shall be installed thereon:

<b>Intersection</b>	<b>Stop Sign On</b>
East Drive and Blaine Avenue	East Drive
East Drive and Harrison Avenue	East Drive
West Drive and Blaine Avenue	West Drive
West Drive and Harrison Avenue	West Drive

- (c) No person shall stop or stand a vehicle during the hours specified below on any day upon any of the following streets or parts thereof:

<b>Street</b>	<b>Side</b>	<b>Hours</b>	<b>Location</b>
All Drives	Both	All	Entire length
Frontage (north)	Both	All	Entire length
Frontage (south)	Both	All	Entire length

3. Walmart Store, 265 Route 73, West Berlin. As per last revised site plan.

4. Berlin Circle Plaza, 200 Route 73 North, West Berlin.

- (a) The speed limit for both directions of travel on East Drive, North Drive, South Drive, West Drive, Road A, Road B and Road C shall be limited to 15 MPH for the entire lengths thereof.
- (b) The following intersections are hereby designated as stop intersections and stop signs shall be installed thereon:

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<b>Intersection</b>	<b>Stop Sign On</b>
North Drive and West Drive	North Drive
South Drive and Road B	South Drive

- (c) No person shall stop or stand a vehicle during the hours specified below on any day upon any of the following streets or parts thereof:

<b>Street</b>	<b>Side</b>	<b>Hours</b>	<b>Location</b>
All Drives and all Roads	Both	All	Entire length

- (d) The following streets or parts thereof are designated as through streets. Stop signs shall be installed on the near-right side of each such street intersecting the through street except where this section provides for a yield sign.

<b>Street</b>	<b>Limits</b>
East Drive	Between Minck Avenue and the northerly intersect with North Drive to Route 73
East Drive	Between the southerly intersect with North Drive and Route 73
North Drive	Entire length
South Drive	Entire length

- (e) North Drive and South Drive shall have designated mid-block crosswalks as shown on the last revised site plan.
- (f) The following locations are designated as loading zones. No person shall park or stand any vehicle in any designated loading zone during the times indicated other than for the loading or unloading of goods and materials.

<b>Street</b>	<b>Side</b>	<b>Hours</b>	<b>Location</b>
Road B	North	All	As per last revised site plan
Road C	North	All	As per last revised site plan

5. Sahara Sam's, Route 73, West Berlin. As per last revised site plan.
- D. The owners of the premises referred to in Sections B and C of this Section 320-27 shall provide and install signs and pavement markings for each parking space reserved for the use of handicapped persons, which signs and markings shall be in accordance with the Manual on Uniform Traffic Control Devices. The cost of procurement and installation of the signs and pavement markings shall be the responsibility of the owner of said property. The owner shall, subsequent to initial procurement and installation, maintain such signs and pavement markings in good condition at no cost or expense to the Township of Berlin. The owner shall be responsible for the repair, restoration or replacement of same, including without limitation the replacement of any such sign to reflect current statutory penalties within thirty (30) days of any change in said penalty amount.

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**SECTION 21:** Chapter 320, Article III, entitled "Vehicle and Travel Limitations," Section 320-29, entitled "No-Passing Zones" (formerly Section 320-34), is hereby revised, amended and/or supplemented by amending the following street references as indicated:

<b>Street</b>	<b>Locations</b>
Franklin Avenue (C R 692)	Entire length
Walker Avenue (C R 708A)	Entire length
Haddon Avenue (C R 561)	Entire length
Taunton Avenue	Entire length
E. Collings Avenue	Entire length
Egg Harbor Road (C R 702)	Entire length

**SECTION 22:** Chapter 320, Article III, entitled "Vehicle and Travel Limitations," Section 320-30, entitled "Speed limits" (formerly Section 320-35), is hereby revised, amended and/or supplemented by designating the entirety of the existing text as a new subsection "A" and creating a new subsection "B" as follows:

**320-30 Speed limits**

- A. The speed limits for both directions of travel on the following roads shall be as follows:

[NO CHANGE TO BALANCE OF SECTION]

- B. Speed limits on roads not otherwise designated in Section A above shall be as posted and/or as otherwise enforced in accordance with the requirements of Title 39 of the Revised Statutes of the State of New Jersey.

**SECTION 23:** Chapter 320, Article IV, entitled "Administration and Enforcement," Section 320-31, entitled "Persons authorized to enforce," is hereby revised, amended and/or supplemented to read as follows:

**320-31 Persons authorized to enforce**

The provisions of this Chapter shall be enforced by the Berlin Township Police Department and/or the Township Engineer, as appropriate.

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**SECTION 24:** Chapter 320, Article IV, entitled "Administration and Enforcement," Section 320-32, entitled "Towing; Removal of vehicles in violation" is hereby revised, amended and/or supplemented to read as follows:

**320-32 Towing; Removal of vehicles in violation**

- A. In addition to the penalties set forth in Section 320-32, any vehicle left unoccupied, parked and/or standing in violation of this Chapter shall be deemed a nuisance and a menace to the safe and proper regulation of traffic and any police officer with property authority may provide for the removal of such vehicle.
- B. The owner or owners of any vehicle towed in accordance with this Section shall be immediately notified of the violation resulting in the removal of the vehicle and the location to where the vehicle was towed.
- C. The costs of towing and storage incurred pursuant to this Chapter shall be paid by the owner or owners of the towed vehicle in accordance with the provisions of Chapter 304 of the Code of the Township of Berlin, entitled "Towing and Storage."

**SECTION 25:** Chapter 320, Article IV, entitled "Administration and Enforcement," Section 320-33, entitled "Violations and penalties" is hereby revised, amended and/or supplemented to read as follows:

**320-33 Violations and penalties**

- A. In addition to the removal provisions of Section 320-31, and except as specifically provided elsewhere in this Chapter or by applicable statute, any person found guilty in the Municipal Court of violating any provision of this Chapter shall be subject to a fine of \$25.00 for the first offense and \$50.00 for any subsequent offense and a term of imprisonment in the county jail not to exceed 15 days, or both.
- B. Notwithstanding Section 320-32(A), the following fines and/or penalties shall apply as indicated:
  - 1. Any person, contractor or utility found guilty in the Municipal Court of violating Section 320-9 of this Chapter shall be subject to the following:
    - (a) First Offense – a fine not less than \$100.00 nor more than \$500.00, imprisonment in the county jail for a term not to exceed 90 days, or both;
    - (b) Second Offense – a fine not less than \$250.00 nor more than \$500.00, imprisonment in the county jail for a term not to exceed 90 days, or both.
- C. Any person found guilty in the Municipal Court of violating the handicapped parking provisions of this Chapter shall be subject to the penalties proscribed by N.J.S.A. 39:4-197(3)(c), as same may be amended from time to time. Such persons

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shall be liable for each such violation regardless of whether the property owner has properly posted signs in accordance with this Chapter and/or whether such signs indicate the amount of fine then in effect as established by law.

- D. Each day a violation of any provision of this Chapter occurs and/or continues shall constitute a separate offense hereunder.

**SECTION 26:** Except as set forth in Sections 1 through 25 above, the balance of Chapter 320 shall not be affected by this Ordinance.

**SECTION 26:** All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 27:** 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 28:** This Ordinance shall take effect twenty (20) days after final adoption and publication as required by law.

Motion by Councilwoman Bodanza, second by Councilman McIntosh 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 2016-14.

Carolyn Picciotti asked if the arborvitae trees are planted 5 ft apart for the health of the trees and until those 8-foot trees fill out, there would be visual gaps between the trees this will be in compliance with the updated Ordinance?

Solicitor Stuart Platt replied yes.

Carolyn commented that the current provision of two 2-week permits a year does not allow enough time to maintain an RV and take trips as well. Separate activities include: winterizing the unit, refreshing (de-winterizing) the unit, and before-and-after trip preparations, and these activities do not need more than 1 week to perform. Rather than a total of 2 permits for a maximum of 4 weeks annually, it would be more helpful to have 1-week permits and a total of 6 per year. That would allow an RV owner to maintain the vehicle (2 permits) and take 2 trips a year (2 before-trips & 2 after-trips) while extending the parking exceptions from a total of 4 weeks to 6 weeks a year. If you would please consider this change.

Solicitor Platt remarked that this would be a decision for the Governing Body to decide.

Mayor and Council agreed to change the parking permits to 6 weeks a year.

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No more comments were to be heard.

Motion by Council President Morris, second by Councilman McIntosh 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 2016-14.

Motion by Councilwoman Bodanza second by Council President Morris to adopt Ordinance 2016-14. Ordinance approved by call of the roll, five members present voting in the affirmative.

**FIRST READING ORDINANCE 2016-15 OF THE TOWNSHIP OF BERLIN, COUNTY OF CAMDEN, AND STATE OF NEW JERSEY, REPEALING AN ORDINANCE GRANTING MUNICIPAL CONSENT TO THE NEW JERSEY BELL TELEPHONE COMPANY AND GRANTING MUNICIPAL CONSENT AND/OR REGULATING STATUTORY AUTHORITY OF VERIZON NEW JERSEY INC., ITS SUCCESSORS AND ASSIGNS TO USE THE VARIOUS PUBLIC STREETS, ROADS, AVENUES, HIGHWAYS AND OTHER PUBLIC WAYS IN THE TOWNSHIP OF BERLIN, CAMDEN COUNTY, NEW JERSEY, FOR ITS LOCAL AND THROUGH LINES AND OTHER COMMUNICATIONS FACILITIES AND PRESCRIBING THE CONDITIONS THEREOF.**

**WHEREAS**, On or about May 3, 1966 the Township of Berlin adopted “An Ordinance Granting Permission And Consent to New Jersey Bell Telephone Company, its Successors and Assigns, to use all of the Various Streets, Roads, Avenues and Highways and Parts Thereof, for the Construction, Maintenance and Operation of its Local and Through Lines and Systems in Connection with Transaction of its Business, and Prescribing the Manner of so Doing”; and

**WHEREAS**, said ordinance was valid for a period of fifty-years and is in need of renewal for the benefit of the residents of the Township of Berlin; and

**WHEREAS**, Verizon New Jersey, Inc. is the successor to New Jersey Bell Telephone Company, the beneficiary of the 1966 Ordinance; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-2, the Governing Body is authorized to enact and amend ordinances as deemed necessary for the preservation of the public health, safety and welfare and as may be necessary to carry into effect the powers and duties conferred and imposed upon the Township by law; and

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

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**SECTION 1:** The Ordinance adopted on May 3, 1966 and entitled “An Ordinance Granting Permission And Consent to New Jersey Bell Telephone Company, its Successors and Assigns, to use all of the Various Streets, Roads, Avenues and Highways and Parts Thereof, for the Construction, Maintenance and Operation of its Local and Through Lines and Systems in Connection with Transaction of its Business, and Prescribing the Manner of so Doing” is hereby deleted in its entirety and replaced with the following new Chapter A379, to be located in the Appendix of the Code Book of the Township of Berlin, as follows:

**§ A379-1 Municipal Consent**

Pursuant to the Provisions of N.J.S.A.48:17-10, N.J.S.A. 48:17-11, and N.J.S.A. 48:17-12, permission and consent is hereby granted to Verizon New Jersey Inc., (the "Company"), its successors and assigns, to install, operate, inspect, maintain, repair, replace and remove its communications facilities and other transmission or process equipment, including underground facilities, such as conduits, manholes, cables, wires, and all other facilities appurtenant thereto, and above-ground facilities, such as cables, wires, antennas, poles, posts, supports, guys, pedestals, cable termination and distribution cabinets and all other facilities appurtenant thereto, in, through, upon, along, over, under, and across all of the various public streets and ways, which include the roads, avenues, right-of-way, sidewalks, highways, bridges, waterways, and other public places, and parts thereof, throughout their entire length, and, subject to compliance with all applicable municipal requirements, to effect the necessary street openings and lateral connections to curb poles, property lines and other facilities in the Township of Berlin (the "Township") for said Company's local and through lines and other communications facilities in connection with the transaction of its business. In the event that any public street or way where the Company has facilities is vacated by the Township, the Township agrees to reserve unto said Company the rights granted the Company by the present Ordinance.

**§ A379-2 Above Ground Facilities**

All poles, posts, pedestals, cabinets, or other facilities shall be located and placed back of the curb lines where shown on the official map(s) of the Township the poles and posts, however, shall be located within eighteen (18) inches of the face of such curb line or as may otherwise be mutually agreed by both parties or required by law, or at the points or places now occupied by the poles, posts, pedestals, cabinets, or other facilities of the Company, its successors and assigns, and where there are no curb lines, at other convenient points or places in, upon, along, adjacent, or across the public streets and ways as may be mutually agreed upon between the parties.

**§ A379-3 Underground Facilities**

The Company may bury its local and through communications facilities such as cables, conduit, manholes and associated equipment, fixtures, process equipment and appurtenances within the right-of-way of the various public streets and ways and at such locations as shall be mutually agreed upon by the parties for said Company's local and through lines and communications facilities. Underground conduits and associated facilities, as aforementioned, shall be placed at least eighteen (18) inches below the surface of said public streets and ways and with the exception

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of lateral branches to curb poles and property lines and other facilities, the same shall generally not be constructed more than ten (10) feet from the curb line, unless obstructions make it necessary to deviate from such course or unless the parties mutually agree to another location. Manholes shall be located at such points along the line of underground conduits as may be necessary or convenient for placing, maintaining, and operating the facilities, as aforementioned, which the Company may from time to time use in connection with its underground conduit system and shall be so constructed as to conform to the cross-sectional and longitudinal grade of the surface so as not to interfere with the safety or convenience of persons or vehicles.

**§ A379-4 Notice; Permits; Restoration**

Before proceeding with any new construction or relocation work in an area covered by this Ordinance, the Company shall give prior notice in writing thereof to the Township, through its designated representative, of its intention to perform such work. The Company shall obtain such street opening or excavation permits as may be lawfully required by any applicable ordinances regulating such openings or excavations. The company shall be responsible for all costs of construction performed in accordance herewith and any area affected by the Company in constructing its facilities shall be restored to as good condition as it was before the commencement of work thereon. No public streets or ways shall be encumbered for a period longer than shall be reasonable to execute the work.

**§ A379-5 Indemnification**

The Company agrees to indemnify and save harmless the Township from and against all claims and liabilities resulting from any injury or damage to the person or property of any person, firm or corporation caused by or arising out of road conditions resulting from any negligent or faulty excavations, installation or maintenance connected with the work or equipment of said Company, and not attributable to the fault or negligence of the Township, except that if such injury or damage shall be caused by the joint or concurring negligence or fault of the Company and the Township, the same shall be borne by them to the extent of their respective fault or negligence.

**§ A379-6 New or Relocated Curb Line**

Whenever a curb line shall be established on streets where one does not now exist or where an established curb line shall be relocated in order to widen an existing street in conjunction with road construction being performed by the Township, the Company shall change the location of its above-ground facilities covered by this Ordinance at their expense (except as otherwise expressly provided by law) and at no cost to the Township and in accordance with applicable law so that the same shall be back of, and adjacent to, the new curb line, so long as the Township has acted in accordance with applicable law and with reasonable care in establishing the new curb line and providing notice thereof.

**§ A379-7 Municipal Consent Non-Exclusive**

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Any company or corporation having legal authority to place its facilities in the public streets and ways of the Township may jointly use the Company's poles, posts, pedestals or other structures for all lawful purposes, provided the Company consents to such use, on terms and conditions acceptable to the Company and not inconsistent with the provisions of the present Ordinance.

**§ A379-8 Colocation of Certain Township Utilities**

The Company shall provide space, to the extent available, on its poles so long as said poles are occupied by the Company and space, to the extent available, in its main conduits existing on the date of passage of this Ordinance, but not exceeding one (1) duct of standard size, for the sole benefit of the Township during the pendency of this Ordinance. Such space shall be provided for the exclusive use of the Township which use shall be limited to accommodating the wires or electrical conductors required for one-way signal control in connection with municipal police patrol, fire alarm signal control and traffic signal control systems only; but for no other uses or purposes, either alone or in conjunction therewith; nor for circuits for the supply of electrical energy for traffic or other signals; nor for wires, conductors, cable or the equivalent which provide a means of transmitting any signal to a private, commercial or residential location, and which is normally provided by a nongovernmental supplier; provided, further, that no such use or attachment by the Township shall interfere with the plant or facilities of or the use thereof by the Company. All costs or expenses incurred by the Company in connection therewith shall be paid by the Township. It shall be the obligation of the Township to attach its wires to the poles or place its electric conductors in the conduits or manholes of the Company, provided that before proceeding with said work, either by itself or by a person, firm or corporation engaged to perform such work, the Township shall give the Company thirty (30) days prior notice in writing. All such work shall be performed under the supervision of said Company. The Township agrees to indemnify and save harmless the Company from and against all claims and liabilities resulting from any injury or damage to the person or property of any person, firm or corporation caused by or arising out of the Township's installation maintenance, operation or removal of wires or facilities or the Township's use or enjoyment of the Company's plant or facilities as provided under this section, except that if such injury or damage shall be caused by joint or concurring negligence of the Company and Township, the same shall be borne by them to the extent of their respective fault or negligence.

**§ A379-9 Street Dedication**

If any or all of the said streets or ways are later taken over by the County of Camden or the State of New Jersey, such County or State shall have such rights and privileges and be subject to the same terms, conditions and limitations of use as apply herein to the Township, provided, however, that satisfactory prior arrangements as may be necessary are made with the Township and the Company for the full protection of the respective interest of each.

**§ A379-10 "Township" Defined**

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The term "Township" as used in this Ordinance shall be held to apply to and include any form of municipality or government into which the Township or any part thereof may at any time hereafter be changed, annexed, or merged.

**§ A379-11 Scope of Municipal Consent**

The permission and consent hereby granted shall apply to and cover all communications facilities of the Company existing at any time, and related structures, process equipment, and appurtenances heretofore or hereafter erected, constructed, reconstructed, removed, located, relocated, replaced, maintained, repaired, or operated by the Company, its predecessors, successors, or assigns within the Township. This Ordinance shall supersede all prior consent ordinances between the Township and the Company regarding the subject matter hereof.

**§ A379-12 Term**

This Ordinance shall continue in full force and effect for a period of fifty (50) years from the date it becomes effective subject to the right of the Company to seek such changes herein as may be deemed necessary from time to time prior to the expiration of said period, said changes to be approved by the Township. The Company shall maintain its property within the Township and shall comply with applicable law for the provision of safe, adequate and proper service at just and reasonable rates at and after the term of this Ordinance, the Company shall safeguard the public interest in continuous and uninterrupted service within the Township.

**§ A379-13 Advertising, Effective Date**

The Company shall pay the expenses incurred for advertising required in connection with the passage of this Ordinance, after the date of its first reading, within thirty (30) days after the Company has received a bill for said advertising from the publisher. Following final passage of this Ordinance, the Township Clerk shall provide the Company with written notice thereof by certified mail. As provided by applicable law, this Ordinance, and any subsequent amendments, shall not become effective until acceptance thereof by the Company and approval thereof by the Board of Public Utilities.

**SECTION 2:** Except as set forth in Section 1 above, the balance of the Berlin Township Code shall not be affected by this Ordinance.

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

**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.

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**SECTION 5:** This Ordinance shall take effect upon approval by the Board of Public Utilities as required by law, but in no event earlier than twenty (20) days after final adoption and publication.

Motion by Council President Morris, second by Councilman Epifanio to adopt Ordinance 2016-15 on first reading by title. Ordinance adopted by call of the roll, five members present voting in the affirmative.

**FIRST READING ORDINANCE 2016-16 AMENDING ORDINANCE 2015-11 FIXING AND DETERMINING SALARY RANGES FOR THE OFFICERS AND EMPLOYEES OF THE TOWNSHIP OF BERLIN, COUNTY OF CAMDEN, NEW JERSEY.**

**WHEREAS,** the Mayor and Council of the Township of Berlin adopted Ordinance 2015-11 on December 14, 2015 fixing and determining salary ranges for the officers and employees for the calendar year 2016; and

**WHEREAS,** it is the desire of the Mayor and Council of the Township of Berlin to amend the following salary range for the calendar year 2016 as follows:

POSITION	.....SALARY RANGE.....	
	FROM	TO
Part-time Class II Special Law Enforcement Officer (SLEO II):		
Police Outside Employment:		
Traffic and Other Services	\$0.00 per hour	\$65.00 per hour
Traffic and Other Services – Township Funded Projects	\$0.00 per hour	\$45.00 per hour

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of Berlin that the above mentioned salary range is amended as stated.

Motion by Councilwoman Bodanza, second by Councilman McIntosh to adopt Ordinance 2016-16 on first reading by title. Ordinance adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2016-134 RESOLUTION RECINDING RESOLUTION 2016-133 AND APPROVING CHANGE ORDER 1 TO THE LUKE AVENUE BANDSHELL.**

**WHEREAS,** it was necessary to make changes in the scope of work to be done in completing the **Design/Build of Bandshell for the Luke Avenue Recreation Complex** in the Township of Berlin, Camden County, New Jersey:

**WHEREAS,** Change Order No. 1 was developed to itemize and authorize those changes.

**WHEREAS,** certification has been received by the Township Treasurer/Finance Director that sufficient funds have been allocated for this Change Order;

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**NOW, THEREFORE, BE IT RESOLVED** by the Township of Berlin that Change Order No. 1 is hereby authorized and approval is hereby granted to revise the contract amount from \$33,756.00 to \$33,024.00 a decrease in the amount of \$732.00.

Motion by Councilwoman Bodanza, second by Councilman McIntosh to adopt Resolution 2016-134. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2016-135 GOVERNING BODY CERTIFICATION OF THE ANNUAL AUDIT.**

**WHEREAS**, N.J.S.A. 40A: 5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and

**WHEREAS**, the Annual Report of Audit for the year 2015 has been filed by a Registered Municipal Accountant with the Municipal Clerk pursuant to N.J.S.A. 40A: 5-6, and a copy has been received by each member of the governing body; and

**WHEREAS**, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

**WHEREAS**, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation requiring that the governing body of each municipality shall, by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled "Comments and Recommendations; and

**WHEREAS**, the members of the governing body have personally reviewed, as a minimum, the Annual Report of Audit, and specifically the sections of the Annual Audit entitled "Comments and Recommendations, as evidenced by the group affidavit form of the governing body attached hereto; and

**WHEREAS**, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and

**WHEREAS**, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

**WHEREAS**, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52, to wit:

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R.S. 52:27BB-52: A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

**NOW, THEREFORE BE IT RESOLVED**, That the Mayor and Council of the Township of Berlin hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

Motion by Councilwoman Bodanza, second by Councilman McIntosh to adopt Resolution 2016-135. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2016- 136 AUTHORIZING TRANSFER OF CREDITS FROM May 2016 CURRENT TAX TO August 2016 PREPAID TAX VARIOUS LOTS.**

**WHEREAS**, the owners of said properties have previously paid all or part of the May 2015 tax quarter which has now created an overpayment that must be credited to the next fiscal year taxes, so;

**WHEREAS**, the following properties need a transfer of credit as follows:

Block/Lot	Amount	Owner
1202/6	3.04	FRANKEL, STEPHEN & RUBINSON, RONALD
2404/44	0.12	HOVBROS BERLIN LLC - HOA

**NOW, THEREFORE BE IT RESOLVED** by the Mayor and Council of the Township of Berlin that the credits totaling \$3.16 be transferred from the overpaid May 2016 current tax to the August 2016 prepaid tax.

Motion by Councilwoman Bodanza, second by Councilman McIntosh to adopt Resolution 2016-136. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2016-137 RESOLUTION CANCELING THE RECEIVABLE AND RESERVE BALANCE FOR THE DRIVE SOBER OR GET PULLED OVER GRANT.**

**WHEREAS**, a receivable and reserve balance of \$1,760.93 titled Drive Sober or Get Pulled Over Grant remains on the balance sheet at 6/30/16; and

**WHEREAS**, the grant is complete and it is necessary to formally cancel the receivable balance and its' offsetting appropriation reserve balance from the balance sheet;

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**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of Berlin that the receivable and reserve balance of \$1,760.93 titled Drive Sober or Get Pulled Over Grant is hereby canceled.

Motion by Councilwoman Bodanza, second by Councilman McIntosh to adopt Resolution 2016-137. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2016-138 RESOLUTION OF THE TOWNSHIP OF BERLIN AUTHORIZING, THE IMPOSITION OF LIENS IN ACCORDANCE WITH CHAPTER 280 OF THE CODE OF THE TOWNSHIP OF BERLIN ENTITLED, "SOLID WASTE," AND CHAPTER 289, ENTITLED "STREETS & SIDEWALKS AND SECTION 303 OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE BOOK ENTILED SWIMMING POOLS, SPAS AND HOT TUBS".**

**WHEREAS**, N.J.S.A. 40:48-2.12(f) authorizes a municipality to perform certain acts of property maintenance and to charge the costs thereof as a lien against the real property on which such maintenance is performed; and

**WHEREAS**, Chapters 280 and 289 of the Code of the Township of Berlin and 303.1 of the IPM Code Book establish, *inter alia*, the procedure by which such property maintenance shall be performed and the process through which the costs thereof shall be established as municipal charges and/or liens against the real property upon which such maintenance is performed; and

**WHEREAS**, the Code Enforcement Officer for the Township of Berlin was notified and became aware that property maintenance was necessary for certain real properties located in the Township of Berlin listed as follows:

<b><u>Property: Block/Lot</u></b>	<b><u>REASON</u></b>
226 Second Ave. B-605 L-3	Lawn care
92 Chester Ave. B-202 L-1	Lawn care
205 Abbott Ave. B-530 L-7	Lawn care
229 Third Ave. B-605 L-5	Lawn care
235 Boyer Ave. B-602.01 L-13	Lawn care
526 N. Route 73 B-903 L-10.01	Lawn care
176 First Ave. B-622 L-3	Lawn care
186 First Ave. B-616 L4	Lawn care
Haddon & Veterans Ave. B-625 L-8.01	Lawn care
30 Holly Dr. B-1307 L-30	Lawn care

**WHEREAS**, pursuant to Chapter 280 and Article III of Chapter 289, the Code Enforcement Officer issued Violation Notices to the property owner(s) or responsible party(ies) relating to the above-referenced conditions which were found to be health and safety hazards; and

**WHEREAS**, the property owner(s) or responsible party(ies) failed to take appropriate action as required in said Violation Notices and the Code Enforcement Officer placed a work order

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with outside vendors to have such work performed as necessary to protect the health, safety and welfare of the Township; and

**WHEREAS**, the Code Enforcement Officer provided invoices as certification of all costs associated with the above-described work performed in order that the monies expended to pay outside vendors to perform the services at these properties could be charged against the respective properties as more fully set forth below;

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Township of Berlin that it hereby authorizes, approves and ratifies the assessment of municipal charges and/or liens on the following properties as of the date first noted below in accordance with the certified costs provided by the Code Enforcement Officer as described above, and further resolves that these amounts shall forthwith become a lien on such lands as provided for herein:

<u>Property: Block/Lot</u>	<u>Date Charge</u>	<u>AMOUNT</u>	<u>REASON</u>
226 Second Ave. B-605 L-3	July 11, 2016	\$40.00	Lawn care
92 Chester Ave. B-202 L-1	July 11, 2016	\$40.00	Lawn care
205 Abbott Ave. B-530 L-7	July 11, 2016	\$40.00	Lawn care
229 Third Ave. B-605 L-5	July 11, 2016	\$50.00	Lawn care
235 Boyer Ave. B-602.01 L-13	July 11, 2016	\$50.00	Lawn care
526 N. Route 73 B-903 L-10.01	July 11, 2016	\$75.00	Lawn care
176 First Ave. B-622 L-3	July 11, 2016	\$50.00	Lawn care
186 First Ave. B-616 L-4	July 11, 2016	\$50.00	Lawn care
Haddon & Veterans Ave. B-625 L-8.01	July 11, 2016	\$65.00	Lawn care
30 Holly Dr. B-1307 L-30	July 11, 2016	\$65.00	Lawn care

**BE IT FURTHER RESOLVED**, that each of the above-referenced charges and/or liens shall be filed with and shall remain on file with the Tax Office until payment in full thereof, including any penalties and/or interest that may accrue thereon; and

**BE IT FURTHER RESOLVED**, that all unpaid liens authorized herein shall bear interest at the same rate allowed for unpaid taxes and shall be collected and enforced in the same manner as unpaid taxes and further that the Tax Collector is further authorized to subject same to Tax Sale in the calendar year next following the date thereof in accordance with the Tax Sale Law; and

**BE IT FURTHER RESOLVED**, that payment of the full amount of said municipal charges and/or liens, plus any accumulated penalties and/or interest thereon, has been tendered to the Tax Collector regarding certain of the aforementioned liens and therefore the Tax Collector is further authorized and instructed to discharge and remove same of record with respect to said properties as follows:

**BE IT FURTHER RESOLVED that** a copy of this Resolution shall be provided to the Township Tax Collector and said Resolution, together with all invoices evidencing certification of costs expended for said work, shall be filed with and/or shall remain on file with the Township Tax Collector.

Motion by Councilwoman Bodanza, second by Councilman McIntosh to adopt Resolution 2016-138. Resolution adopted by call of the roll, five members present voting in the affirmative.

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**RESOLUTION 2016-139 PAYMENT OF BILLS FOR JULY 11, 2016.**

**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.

<b>TO</b>	<b>ACCOUNT</b>	<b>AMOUNT</b>
Various Current Fund and Sewer Operating and General Capital Fund Checks	See Bill List Attached dated: 7/7/16	\$ 950,544.54

<b>TO</b>	<b>CONFIRMING: ACCOUNT</b>	<b>AMOUNT</b>
Various Current Fund and Sewer Operating Fund Checks	See Bill List Attached dated: 6/22/16	\$ 26,602.06
America on Line (5/23/16)	6-01-31-443-2077	43.99
Ameriflex (June)	Flex Claims Account	75.00
Majestic Oil Company, Inc.	6-01-31-447-2074	7,710.43
Mighty Auto Parts of SJ	6-01-26-315-2025	457.41
Inter-Community Celebration Assoc. Treasurer, State of NJ	6-01-30-420-2105 Dog Trust	5,865.00 16.80
Verizon Fios Admin (6/16-7/15/16)	6-01-31-443-2077	139.99
H.A. DeHart & Son	6-01-26-315-2025	5,492.97
H.A. DeHart & Son	6-01-26-315-2025	81.92
TD Bank – Series 2010A Bonds	6-01-45-930-2105	222,387.50
State of NJ Health Benefits (A-Jun)	6-01-23-220-2092	67,042.76
State of NJ Health Benefits (R-Jun)	6-01-23-220-2092	38,590.43
TD Bank- Series 2012 Bonds	6-07-55-522-2105 6-07-66-160-0168	60,459.38 1,275.00
Payroll, Current Fund	06/23/16	128,547.84
Payroll, Sewer Operating Fund	06/23/16	6,618.18
Payroll, Current Fund	07/07/16	127,334.41
Payroll, Sewer Operating Fund	07/07/16	6,873.64

Motion by Councilwoman Bodanza, second by Councilman McIntosh to adopt Resolution 2016-139. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2016-140 RESOLUTION REQUESTING THE ISSUANCES OF AN OFF PREMISE RAFFLE LICENSE FOR INDEPENDENCE CHEMICAL FIRE CO #1.**

**JULY 11, 2016**

**WHEREAS**, the Independent Chemical Fire Company #1, located at 186 Haddon Avenue West Berlin, New Jersey has requested the issuances of an off premise raffle license by the Township of Berlin for;

**Event: Wednesday September 14, 2016 at 8:00 pm at the West Berlin Fire and Rescue located at 186 Haddon Avenue West Berlin NJ 08091**

**Off- Premises Raffle      \$500.00 gift card from Shoprite of West Berlin**

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of Berlin that it hereby authorizes the issuances of an off premise raffle license by the Township of Berlin for Independent Chemical Fire Company #1 for an event on Wednesday September 14, 2016.

Motion by Councilwoman Bodanza, second by Councilman McIntosh to adopt Resolution 2016-140. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2016-141 RESOLUTION AMENDING SALARY RESOLUTION 2015-193 ESTABLISHING SALARY AND WAGES FOR THE OFFICERS AND EMPLOYEES OF THE TOWNSHIP OF BERLIN, COUNTY OF CAMDEN, NEW JERSEY.**

**WHEREAS**, the Mayor and Council of the Township of Berlin adopted Resolution 2015: 193 on December 14, 2015, establishing the salary and wages for the officers and employees of the Township of Berlin for the calendar year 2016; and

**WHEREAS**, it is the desire of the Mayor and Council of the Township of Berlin to amend the following salary effective September 6, 2016 as follows:

POSITION	AMOUNT
Finance Clerk (Not to exceed 21 hours per week)	\$13.00 per hour

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of Berlin that the above mentioned salary is amended as stated.

Motion by Councilwoman Bodanza, second by Councilman McIntosh to adopt Resolution 2016-141. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2016-142 RESOLUTION AWARDDING A CONTRACT TO HUNTER PETERBILT FOR AUTOMATED REFUSE TRASH TRUCKS.**

**WHEREAS**, the **Township of Berlin** has advertised for, and received bids for the purchase of two automatic refuse trash trucks; and

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**WHEREAS**, only one bid was received, for the Base Bid (\$519,664.00) plus Alternate Bid Number 1, GPS Tracking System (\$3,031.12), Alternate Bid Number 2, Multi-line Automated Grease System on the Automated Arm (\$11,000.00) and Alternate Bid Number 3, Refuse Body Wrap (\$6,000.00) in a total amount of \$539,695.12 in accordance with the provisions of the specifications.

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Council of the **Township of Berlin**, County of **Camden**, State of New Jersey, that a contract in the amount of \$539,695.12 for the Purchase of two Automatic Refuse Trash Trucks is hereby awarded to Hunter Peterbilt of Clarksburg NJ, conditional upon the following:

1. That a certificate has been received from the Municipal Treasurer stating that funds are available for this Contract.
2. That the bid documents and bidding procedures have been reviewed and approved by the Municipal Solicitor.
3. This Resolution hereby authorizes the Mayor and Clerk to endorse the Contract document.

Motion by Councilwoman Bodanza, second by Councilman McIntosh to adopt Resolution 2016-142. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2016-143 RESOLUTION AWARDING A CONTRACT TO SCHAEFER SYSTEMS INTERNATIONAL FOR REFUSE CARTS FOR SOLID WASTE, RECYCLABLE MATERIALS AND VEGETATION.**

**WHEREAS**, the **Township of Berlin** has advertised for, and received bids for the purchase of refuse carts for solid waste, recyclable materials and vegetation ; and

**WHEREAS**, the Engineer recommends awarding the contract of the Base Bid and Alternate Number 4, with adjustments to the low bidder, Schaefer Systems International, Inc.11021 Westlake Drive Char, North Carolina, in the amount sum of \$341,281.96 for the Base Bid (\$330,690.70) plus Alternate Bid Number 4 (\$13,288.25) plus the following adjustments and supplements to the Base Bid and Alternate Bid Number 4:

Item No.	Payment Item	Quantity		Unit Price		Total
<b>BASE BID ADJUSTMENTS</b>						
1.	64 Gallon Minimum Solid Waste Universal Cart, Complete	+11 Units	@	\$44.46	=	+\$ 489.06
2.	64 Gallon Minimum Recycling Universal Cart, Complete	+12 Units	@	\$44.46	=	+\$ 533.52
3.	64 Gallon Minimum Vegetation Universal Cart, Complete	-193 Units	@	\$44.46	=	-\$8,580.78

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4.	95 Gallon Minimum Solid Waste Universal Cart, Complete	+40 Units	@	\$50.66	=	+\$2,026.40
5.	64 Gallon Minimum Recycling Universal Cart, Complete	+41 Units	@	\$50.66	=	+\$2,077.06
1S.	64 Gallon Minimum Solid Waste Lid, Only	+13 Units	@	\$9.00	=	+\$ 117.00
2S.	64 Gallon Minimum Recycling Lid, Only	+4 Units	@	\$9.00	=	+\$ 36.00
3S.	64 Gallon Minimum Vegetation Lid, Only	+6 Units	@	\$9.00	=	+\$ 54.00
4S.	95 Gallon Minimum Solid Waste Lid, Only	+14 Units	@	\$10.00	=	+\$ 140.00
5S.	95 Gallon Minimum Recycling Lid, Only	+4 Units	@	\$10.00	=	+\$ 40.00
6S.	95 Gallon Minimum Vegetation Lid, Only	+\$6 Units	@	\$10.00	=	+\$ 60.00
7S.	Adjustment in the Unit Prices for Items Nos. 2S and 5S for Pink Lids	8 Units	@	\$0.75	=	<u>+\$ 6.00</u>
Sub-total- Base Bid Adjustments					=	-\$ 3,001.74
<b>ALTERNATE BID NUMBER 4 ADJUSTMENTS</b>						
1.	Adjustment to the Amount Bid for Item No. 2, 64 Gallon Minimum Recycling Universal Cart, In Base Bid	+12 Units	@	+\$5.75	=	\$+ 69.00
2.	Adjustment to the Amount Bid for Item No. 5, 95 Gallon Minimum Recycling Universal Cart, In Base Bid	+41 Units	@	+\$5.75	=	<u>+\$ 235.75</u>
Subtotal- Alternate Number 4 Adjustments					=	+\$ 304.75
Total Adjustment for Base Bid and Alternate Bid Number 4					=	-\$2,696.99
Plus Base Bid Plus Alternate Bid Number 4					=	\$343,978.95
<b>Adjusted Amount for Award of the Contract</b>					=	<b>\$341,281.96</b>

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Council of the **Township of Berlin**, County of **Camden**, State of New Jersey, that a contract in the amount of , conditional upon the following:

1. That a certificate has been received from the Municipal Treasurer stating that funds are available for this Contract.
2. That the bid documents and bidding procedures have been reviewed and approved by the Municipal Solicitor.
3. This Resolution hereby authorizes the Mayor and Clerk to endorse the Contract document.

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Motion by Councilwoman Bodanza, second by Councilman McIntosh to adopt Resolution 2016-143. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2016-144 RESOLUTION TO APPROVE A DEBRIS MANAGEMENT PLAN ANNEX FOR THE BERLIN TOWNSHIP EMERGENCY OPERATION PLAN.**

**WHEREAS** the Township of Berlin recognizes the natural and human caused disasters that have the potential to create debris that can disrupt the quality of life, and complicate disaster response and recovery; and

**WHEREAS** the Township of Berlin also recognizes that planning for such disasters can lessen the impact on the community, the economy and the environment, therefore, Berlin Township has developed this plan to facilitate a rapid response and recovery to debris causing incidents.

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Township of Berlin, County of Camden, State of New Jersey, approves the Debris Management Plan Annex for the Berlin Township Emergency Operation Plan subject to the Township Solicitors review and approval and conditional upon the following: and

**FURTHER BE IT RESOLVED** the Township of Berlin Mayor, Public Works Director and Emergency Management Coordinator is hereby authorizes to endorse the Debris Management Plan.

Motion by Councilwoman Bodanza, second by Councilman McIntosh to adopt Resolution 2016-144. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2016-145 RESOLUTION REQUESTING THE RELEASE OF PERFORMANCE BOND FOR SAHARA SAM'S WATER PARK AND THE POSTING OF A MAINTENANCE BOND.**

**WHEREAS**, Sahara Sam's Waterpark located at 535 Route 73 North, West Berlin, New Jersey; Block 1101, Lot 16, has requested the release of their Performance Bond in the amount of \$326,147.52 ;and

**WHEREAS**, the Engineer has recommended that the Township grant the request for the release of the Performance Bond contingent upon the posting of a two year Maintenance Bond in the amount of \$40,768.44 dated June 10, 2016.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of Berlin, Camden County, New Jersey, that the request for the release of their performance bond is hereby granted with the conditions stated above.

Motion by Councilwoman Bodanza, second by Councilman McIntosh to adopt Resolution 2016-145. Resolution adopted by call of the roll, four members present voting in the affirmative, Council President Morris abstained.

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**RESOLUTION 2016-146 APPROVING AND AUTHORIZING A DISCHARGE OF LIEN AS A RESULT OF PAYMENT SATISFIED ON REAL PROPERTY FOR NECESSARY MAINTENANCE WORK PERFORMED.**

**WHEREAS**, the property owner or responsible party failed to take appropriate action as required in the Violation Notices; the Code Enforcement Officer placed a work order with outside vendors on the properties and provided an invoice as certification of all costs associated with the work performed pursuant to Chapter 280-6 and pursuant to Chapter 280-7 the monies expended to pay outside vendors to perform the services at these properties have been charged against the property; and pursuant to Chapter 280-8 forthwith became a lien on such lands and was filed with the Tax Office; said lien to be discharged by the Tax Collector upon payment.

**WHEREAS**, the Tax Collector has confirmed receipt of payment for the liens against the following properties representing maintenance work performed; the maintenance liens against the following properties have been discharged, as follows:

<b>Property:</b>	<b>AMOUNT</b>	<b>DATE PAID</b>
226 Second Ave	\$ 40.00	5/11/16
148 North Ave	\$ 125.00	6/17/16
43 N. Rose Lane	\$ 40.00	7/07/16

**Dated: July 11, 2016**

**Dana O'Hara, CTC - Tax Collector**

By resolution of the Mayor and Council of the Township of Berlin, for the reasons set forth hereinabove, it hereby approves and authorizes said liens against said properties pursuant to Chapter 280-7 of the Code of the Township of Berlin hereby discharged.

**BE IT FURTHER RESOLVED**, this resolution shall take effect immediately upon adoption.

Motion by Councilwoman Bodanza, second by Councilman McIntosh to adopt Resolution 2016-146. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2016-147 RESOLUTION OF THE TOWNSHIP OF BERLIN APPROVING SETTLEMENT**

**WHEREAS**, Vito J. Fruggerio, Inc., Thomas Sherwood, Berlin News World, Inc., Saverio Garofalo, Jennie Castaldo and Anthony Trombette, Jr. (collectively hereinafter "Plaintiffs") filed a lawsuit against the Township Council of the Township of Berlin, Phyllis A. Magazzu, Mayor of the Township of Berlin, in her official capacity, Christopher T. Morris, Member of the Township Council, in his official capacity, Marion Bodanza, Member of the Township Council, in her official capacity, Frank Epifanio, Member of the Township Council, in his official capacity, and Jerome McIntosh, Member of the Township Council, in his official capacity (collectively hereinafter "Township"), in the Superior Court of the State of New Jersey, Camden County, captioned and docketed as Vito J. Fruggerio, Inc., et al. v.

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Township Council of the Township of Berlin, et al., bearing Docket No. CAM-L-351-16, challenging the constitutionality of the hours of operation restriction contained in the Township's Sexually Oriented Businesses Ordinance, which is codified in Chapter 268 of the Township Code; and

**WHEREAS**, the parties have engaged in settlement negotiations; and

**WHEREAS**, as a result of those settlement negotiations, all controversies between Plaintiffs and the Township have been resolved; and

**WHEREAS**, the Governing Body is of the opinion that the settlement is in the best interests of the Township;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Township Council of the Township of Berlin, County of Camden, State of New Jersey, for the reasons set forth above that the settlement consistent with the terms set forth in the General Release and Settlement Agreement attached hereto as Exhibit "A" be and hereby is approved; and

**BE IT FURTHER RESOLVED** that the Mayor, Phyllis J. Magazzu, is hereby authorized to implement this Resolution and execute any documents necessary in connection therewith.

Motion by Councilwoman Bodanza, second by Councilman McIntosh to adopt Resolution 2016-147. Resolution adopted by call of the roll, five members present voting in the affirmative.

**Approval of Minutes for June 13, 2016**

Motion by Councilman McIntosh, second by Council President Morris to approve the Meeting Minutes for June 13, 2016. Motion carried by voice vote, five present voting in the affirmative.

**Correspondence Calendar for June 2016**

Motion by Councilwoman Bodanza, second by Council President Morris to receive and file the Correspondence Calendar for June 2016. Motion carried by voice vote, all present voting in the affirmative.

**Consent Agenda for June 2016**

Motion by Councilwoman Bodanza, second by Council President Morris to receive and file the monthly reports on the consent agenda for June 2016. Motion carried by voice vote, all present voting in the affirmative.

**All Other Business**

- 1) Irish Pub Children's Foundation, the 29<sup>th</sup> Annual Irish Pub Tour de Shore charity bike ride will be held on July 17<sup>th</sup> 2016. An organization that helps families of fallen police officers.

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**Public Portion**

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.

Stafford Miller, Fairview Avenue comments that at his a camp today a little boy had asked him if he should be afraid of the Berlin Township Police and Mr. Miller responded that in spite of everything going on in the media you don't have to be afraid because Police have a lot of training on how to treat people. So his question was to Mayor and Council when was the last time the officers received any type of training.

Mayor Magazzu responded that our police department is always in training and taking classes, some which are mandatory through the Attorney General office and through our Joint Insurance Fund.

Councilwoman Bodanza remarked that our police department has been recognized and has received awards because of the outstanding job that they do every day.

Carolyn Picciotti, Hudson Avenue asked who is responsible for enforcing the invasive plant ordinance.

Stuart replied that if a property owner is in violation then they would receive a municipal summons to appear in court.

Sam Sykes, Division Avenue commented that his years working in the Prosecutors office he has seen diligently Berlin Township Officers working in getting the training and knowledge to help improve the quality of life for the residents of Berlin Township. Mr. Sykes said that today the police department reaches out to the community and to my people always and willing to assist with a smile.

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.

**Adjourn**

Motion by Councilwoman Bodanza, second by Councilman Epifanio to adjourn the meeting at 7:21 pm. Motion carried by voice vote, all members voting in the affirmative. Meeting adjourned 6:39 pm

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Catherine Underwood, Township Clerk

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