

SEPTEMBER 14, 2009

BI-MONTHLY MEETING OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF BERLIN, CAMDEN COUNTY, NEW JERSEY, WAS HELD IN THE CONFERENCE ROOM OF THE SCHOOL BOARD ADMINISTRATIVE BUILDING, 225 GROVE AVENUE, WEST BERLIN, NEW JERSEY ON MONDAY SEPTEMBER 14, 2009 AT 6:30 P.M.

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

All in attendance joined in the Salute to the Flag.

ROLL CALL

Present- Councilman Batten, Councilman McIntosh, Council President DiGangi, Mayor Magazzu.

Also Present- Donafaye Zoll, Solicitor, Chuck Riebel, Engineer Michael Laginestra, Zoning Officer, Michael McGee, Director Public Works, Lori Campisano, CFO, Joseph Jackson, Chief Of Police.

Absent- Councilman Morris

AWARDS

Chief of Police, Joe Jackson spoke about the police departments outstanding job this past summer and wanted to recognized some of the guys who went above and beyond their patrol duties, Patrolman Lex, Patrolman Steen, Sergeant Siderio, Sergeant Check, Patrolman Edwards, Detective Sheehan, Patrolman Davis, Patrolman Pumphery and Patrolman Silvestro.

SUPERINTENDENT OF BERLIN TOWNSHIP SCHOOL

Mr. Brian Betze updated Mayor and Council on the schools this year and noted that we had a very smooth opening. Mr. Betze also commented students last year read over 27,000 books and completed 25,000 math objectives, they beat last years record by 4 to 5 thousand books. He noted that other school district were doing reading logs with parent signatures, with the accelerator reader, here the student know they have to read the material because they will have to take a test and pass. Mr. Betze commented that to make room for full day Kindergarten and Preschool, the 4th grade class moved over to the Dwight D. Eisenhower School. The staff did a great job with the transition. Brian also spoke about the leaving of Business Administrator Jack Mills and the problem the district would be facing, because the State is pushing for consolidation of district the County

SEPTEMBER 14, 2009

Superintendent will not allow the district to hire a full time Business Administrator, so now we are trying to share our services with another school district.

HOUSING PROGRAM

Ron Conklin spoke about the winding down of the NPP program. We have received a lot of thank you letters on the homes that we have recently completed. We are in our last stage of funding. We did receive another 100,000.00 dollars from the County for rental rehab. Ron added that we have been asked to be a participating municipality with "Live Where You Work" program, through the New Jersey Housing Mortgage Finance. The program is a home incentive program, which provides low interest mortgage loans for home buyers purchasing homes in towns where they are employed. So as soon as I receive more information on this I ask the governing body to consider taking action.

GOOD AND WELFARE #1

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

No other comments were to be heard.

Motion by Council President DiGangi, second by Councilman McIntosh to close the meeting to public. Motion carried by voice vote, all present voting in the affirmative. Mayor Magazzu closed the meeting to the public.

DEPARTMENTAL REPORTS

A. CHANGE ORDERS AND VOUCHERS

1. 2008 Street Improvements Program: Change Order No. 4 (Final and Voucher No. 4 (Final) for DiMeglio Construction Company.

B. ENGINEER'S REPORT

1. **TRAFFIC SIGNAL AND GEOMETRIC IMPROVEMENTS AT THE INTERSECTION OF COOPER ROAD AND TAUNTON AVENUE (KEI #393BT0203)**: We believe that the County is ready to bid the construction project. The County Engineer is requesting that the Governing Body confirm that the Township will be responsible for the traffic control costs. The County representatives had stated, several years ago, that they would be requiring the Township to bear the cost of the traffic control.

The County will be performing the contract administration and inspection for the project.

SEPTEMBER 14, 2009

As reminded by Ms. Zoll, I will be providing her with a list of the developers, which are required to contribute their fair share towards the cost of the project.

2. **SIDEWALK ALONG N.J.S.H. ROUTE 73, EDGEWOOD AVENUE TO JACKSON ROAD, (N.J.D.O.T. FY 2008 AND FY2009 FUNDING - \$320,000.00):** The N.J.D.O.T. has issued their approval. I have recently received a letter from The Pinelands Commission. They are requiring that we demonstrate compliance with their regulations, in regard to wetlands and stormwater management. I had requested that they allow this project to fall within the approvals for the N.J.D.O.T. project. Since they are not allowing the inclusion with the previously approved project, we must perform the necessary services to address their issues. Due to The Pinelands requirement, the project will be delayed until we can, hopefully, obtain their approval.

3. **PURCHASE AND/OR LEASE OF SENIOR CITIZENS BUS, (C.D.B.G. YEARS 30 AND 31 FUNDING- \$60,500.00+/-) (KEI# 165.01BT0209):** Two bids were received on July 28, 2009. The only bid, which appears to be properly submitted, is for the purchase of the bus, by American Bus and Coach of Trenton, New Jersey.

The following is a listing of their bid for Proposal No. 1 – Purchase:

Base Bid – 2009 gasoline powered bus	\$60,749.00
Alternate Bid No. 1 – 2009 diesel powered bus	\$68,849.00
Alternate Bid No. 2 – 2009 propane powered bus	\$78,500.00
Alternate Bid No. 3 – 2009 gasoline powered bus with Trade-in of the existing bus	\$59,749.00

The bid is valid until September 28, 2009, unless extended by the bidder.

The County C.D.B.G. has allotted approximately \$60,500.00 in Years 30 and 31 C.D.B.G. funding.

The bids submitted for the lease and lease/purchase were submitted in a non-compliant format. If the Governing Body is considering an award of a contract for a lease or lease/purchase, it would be necessary to reject the bid and advertise for the re-bid of the bus.

If the Governing Body decides to award a contract for the purchase of the bus, it appears that, due to limited funds, it would be necessary to award the Base Bid for the purchase of the gasoline powered bus.

SEPTEMBER 14, 2009

I would note that, under the Alternative Fuel Vehicle Rebate Program, the Township would be eligible for a \$7,000 rebate for a propane powered bus. Due to the initial cost, the need for a propane filling station and the regulations associated with this station, I recommend that the Governing Body not consider this option, unless there is an intent to power the fleet with propane.

4. **N.J.D.O.T. FY2010 MUNICIPAL AID APPLICATION:** The following applications for street improvements were, electronically, submitted to the N.J.D.O.T.:

- Priority No. 1: Resurfacing of Mt. Vernon Avenue –
Franklin Avenue to Minck Avenue
Requested funding = \$254,000.00
- Priority No. 2: Improvements to Hazel Avenue-
Chestnut Avenue to Cushman Avenue
Requested funding = \$167,000.00

Typically, the funding is limited to a maximum of \$180,000.00. The announcement of selected projects is, typically, made near the end of the year.

In regard to a previous request, which was submitted to the N.J.D.O.T. for discretionary funds for Katherine Avenue, I received a copy of a letter from the N.J.D.O.T. The letter notified the Borough that discretionary funds were not allotted to Katherine Avenue.

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

- a. Proposed Irrigation System: Since the irrigation system will not be installed, at this time, we have requested that the site subcontractor assist the Public Works Department in installing sleeves in the proposed storm drainage pipe trenches for use, in the future.

I would assume that the testing of the irrigation well will be performed, immediately prior to the installation of the irrigation system.

- b. Site Work: The site contractor has performed the rough grading and will be constructing the storm drainage, during the week of September 7, 2009.

6. **2008 STREET IMPROVEMENT PROGRAM (KEI# 491BT0308):** The contractor has performed the corrective work to the pavement on Toomer Avenue. The corrective pavement has addressed the ponding issue, for the most part. The surface of this pavement is somewhat rough, but represents the best

SEPTEMBER 14, 2009

quality which could be provided, under the circumstances. Therefore, we recommend that the corrective work be accepted and the Governing Body approve the final change order and voucher.

7. **HADDON AVENUE STREETScape IMPROVEMENTS (KEI #430BT1104 AND #431BT1104):**

- a. Phase 2 – Franklin Avenue to Bate Avenue (N.J.D.O.T. Discretionary Fund – \$200,000.00) (KEI #431BT0105): As discussed, a request was submitted to Assistant Commissioner Sharon Shinkle-Gardner, Government/Community Relations and Communications for her assistance in obtaining the \$3,180.00 reimbursement.

Ms. Sharon Shinkle-Gardner, from the N.J.D.O.T. has advised our office that she has contacted the Office of Local Aid and will be forwarding a response to the request, shortly.

Since we have not received a response we have contacted the Office of Local Aid to determine the status. Upon receipt of a status, we will advise the Governing Body.

- b. Future Phases – Jefferson Avenue to Franklin Avenue and Walker Avenue – Bate Avenue to Lucas Avenue (FY2004 Transportation Enhancement Program and FY2005 SAFETEA-LU) (KEI #29-430BT1104): As reported, the Governing Body had decided not to accept the funds and requested that the project be bypassed to the future time when the Township would be in the position to bond the project.

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

- a. Planting of Trees Along the Rear of the Retail Center, Along the N.J.D.O.T. Ramp, Connecting Oak Avenue to Taunton Avenue (KEI484BT0108): I have not been able to obtain any commitment from the property owner to allow the N.J.D.O.T. to install the evergreen trees along the recently constructed ramp.
- b. Request for No U-Turn at Median Opening Along Route 73 at the Proposed Driveway for the Golden Corral Restaurant: It is my understanding that the applicant for the Golden Corral restaurant is still pursuing the N.J.D.O.T. permit for the proposed driveway. I believe that the matter, regarding the median opening, will be addressed as part of the review for the proposed driveway.

9. **CAMDEN COUNTY OPEN SPACE, ROUND 10 APPLICATION (KEI #487BT0208)**: As discussed at the last Council Meeting, Mr. McGee has requested that the County allow the Township to utilize the entire \$50,000 grant for the recoating of the hockey courts at Robert T. Clyde Memorial Park. Mr. McGee is also obtaining prices for the performance of the work.

10. **SANITARY SEWER ALLOCATION:**

a. Sewer Extensions within the Pinelands Area (KEI #52BT3151): On September 4, 2009, a telephone conference was held, between representatives of The Pinelands Commission and Mr. McGee and me. The Pinelands representatives had stated that the staff has discussed the request to extend sanitary sewer to the non-sewered, Pinelands area. They felt that there are two options which could be considered by The Pinelands Commission. Option "A" would allow for the sewerage of the Public Works Complex and the existing industrial buildings along Edgewood Avenue and Allied Parkway, only. This will require a redesignation of the area to Regional Growth, but will not require any "environmental offsets". They felt that this option would receive the least resistance by the Commissioners. The staff will require the following before they recommend the option to the Commissioners:

- 1) A map, which depicts the location of the existing sewer system.
- 2) The total area of the parcels-in-question be provided to them.
- 3) All of the buildings be connected to the New Jersey American Water Company system and the existing wells be abandoned so there will be no transfer of water from the Atlantic basin to the Delaware basin.
- 4) There must be a commitment to construct the sanitary sewer system to the buildings and they will be mandated to connect the buildings to this sewer system.

They felt that, the Commission could take action in four to five months from the time that the above information was provided to them.

The second option, "B" would be more difficult to obtain approval from the Commission. The representative also believes that it will take at least a year, before the Commission takes action, negative or positive. The option would include the items in Option "A" and removing the non-residential portion from the request. Due to the

SEPTEMBER 14, 2009

close proximity of the lands to the headwaters of the Mullica River, offsetting environmental measures will be required, which could consist of the requirement of a 300 feet wetlands buffer along the Mullica River, requiring residential development on the Dandrea parcel on Cooper Road, stormwater improvements, implementing LEED practices, etc.

They felt that the best option to sewer the residential portion was to demonstrate a public health hazard, resulting from the failing septic systems. Sewer could then be extended under this determination. The sewer would be available to the existing dwellings, only. There would be no change in the designation of the management area.

They stated that public water could be extended to serve the area, if it is documented that the wells are contaminated.

- b. Amendment to the Wastewater Quality Management Plan: As suggested by Mr. Kricun, P.E. of the C.C.M.U.A., the Governing Body has decided to wait until the Spring of 2011 to push this matter, since he feels that additional capacity will be available, resulting in no need for the Township to pay for upgrades to the C.C.M.U.A. conveyance system.

Future development within the Township will be restricted until the allocation issue is resolved.

- 11. **REQUEST FOR BOND REDUCTIONS AND RELEASES:** We have received notice that the following requests have been submitted to the Township Clerk:

- a. Reduction in the Performance Bond – Kepple Carpets. We recommend a reduction. We will be inspecting the site and submitting our recommendation for the amount of reduction to the Governing Body for consideration at the Council Meeting on September 14, 2009.
- b. Reduction in the Performance Bond – Monaco Plaza (next to Filomena’s Restaurant). We are currently determining the extent of the recommended reduction. We will be submitting our recommendation for consideration by the Governing Body at the Council Meeting on September 19, 2009.
- c. Release of the Performance Bond – Sahara Sam’s Indoor Water Park. Due to outstanding site issues, we recommend that the Governing Body consider a reduction in the bond and not a release. We are, currently, preparing the recommendation for the amount of the bond reduction.

12. **BERLIN BOROUGH WATER ALLOCATION AND CONNECTIONS FOR NEW DEVELOPMENTS:**

Ms. Zoll addressed this matter, last month.

13. **N.J.D.E.P. ENVIRONMENTAL INFRASTRUCTURE TRUST PROGRAM:**

If the Pinelands Commission, N.J.D.E.P. and C.C.M.U.A. approved the extension of sanitary sewer into the Pinelands Area, the Governing Body may want to consider applying for a N.J.D.E.P. loan for the construction of the extensions. Typically, commitment letters and the initial application package must be submitted by October for consideration for funding at the end of the following year.

14. **ALTERNATIVE ENERGY SOURCES:** Over the past several months, we have been informing the Governing Body of the various programs being offered through the N.J. Board of Public Utilities (BPU) and N.J.D.E.P. Office of Planning and Substantial Communities.

I had also noted that the N.J.B.P.U. is also willing to provide 100% up-front funds, through the Local Energy Audit Program, if the Township is willing to commit to implementation of the improvements. I believe that the Township still may be waiting for the assignment of a consultant to perform the energy audit.

While funds are still available, I recommend that the Township push for the performance of the audit so the implementation can be performed and funded.

15. **STATE LEGISLATION:**

- a. Inclusion of Facilities Supplying Electrical Energy from Wind, Solar, Photovoltaic Technologies, as "Inherently Beneficial Uses" (S1303/A3062): Both Houses have approved the bill. It is anticipated that the Governor will sign it, but may wait until November, "as it may not be viewed as a priority". I recommend that the Planning/Zoning Board consider developing recommendations for land use and zoning regulations for these facilities. I will submit copies of ordinances, from other municipalities, for their review and consideration when preparing their recommendations to the Governing Body.
- b. New Jersey Economic Stimulus Act of 2009 (A4048/S2299): The Governor signed it into law on July 28, 2009 (P.L. 2009, c.90). This legislation authorizes State and Local incentive grants to developers in qualifying economic redevelopment and growth incentive areas,

SEPTEMBER 14, 2009

exempts projects that received site plan approval before July 2010 from the 2.5% non-residential development fee, as long as a construction permit is issued by January 1, 2013. Funds, which have been deposited for the 2.5% non-residential development fee shall be returned, if the developer submits a written claim for said fees.

- c. Recreation and Open Space: The New Jersey Supreme Court handed down its decision that municipalities do not have the authority, under the Municipal Land Use Law, to impose on-site recreation and open space requirements or impose increasing amounts of contribution for off-site recreation and open space requirements on traditional subdivisions and site plans. They did hold that a municipality can require recreation and open space in a planned development, but it cannot impose a fee in lieu for a planned development.

On November 13, 2008, Assembly Bill No. 3443 was introduced, authorizing the set-asides and fees, in lieu of for recreation and open space as conditions to subdivision and site plan approvals. The bill was referred to the Assembly Housing and Local Government Committee. It does not appear that the bill has made it out of the Committee, at this time. I would assume that they were waiting for the Supreme Court decision.

- d. Deed Restrictions on Affordable Housing Units (A4051/S1622): This legislation "provides that deed restrictions on affordable housing units are not extinguished by foreclosure proceedings. The bill also requires the debtor give notice to the municipal clerk and DCA Commissioner when there is a pending foreclosure on a residential property, which is an affordable housing unit, subject to affordable housing controls.
- e. Restriction of Occupancy of Age-Restricted Dwelling Units Following Resale (S2812/A4083): Both Houses introduced the bill, which requires "dwelling units in an age-restricted community that are transferred by resale to remain occupied by households that will allow the age-restricted community to remain housing for older persons." "The intent of the legislation is to preserve age-restricted properties' unique status by requiring that dwelling units transferred by resale, even for affordable housing purposes, continue to be occupied by older adults." The bills are under review by the Assembly Housing and Local Government Committee and Senate Community and Urban Affairs Committee.

16. **AMENDMENTS TO LAND USE AND ZONING ORDINANCES:**

a. Tree Protection Ordinance:

The Planning Board intends to review the current ordinance and submit recommendations, in the near future. I recommend that Council President DiGangi and/or Mr. McGee discuss this matter with Planning Board Chairman Simone, prior to the Planning Board taking any action, since they have created a list of possible amendments to the ordinance.

b. Regulations for Wind, Solar and Other Alternative Energy Facilities: Since it is anticipated that the Governor will be signing the legislation, in November, establishing these facilities as "inherently beneficial uses", we recommend that zoning and land use regulations be established for these facilities (setback, height, noise, etc.).

17. **MULTI-YEAR CAPITAL IMPROVEMENT PROGRAM:** We strongly recommend that the Governing Body implement the long term plan for improvements to streets, recreation, storm drainage and management, sanitary sewer, alternative energy sources and energy efficient, public buildings, vehicles, equipment, etc.

We had, previously, prepared a recommendation report, which lists projects. If the Governing Body is interested, we will revise the report, to include alternative energy sources and energy efficiency/green improvements.

Should you have any questions or comments in regard to the contents of this report, please contact me at this office.

SOLICITOR'S REPORT

1. Water Agreement with Berlin Borough
2. Increase Sewer Allocation Buildout
3. Vacation Portion Kelley Drive
4. New Municipal Building
5. Richard Winans V. Berlin Township Walt Shendock
6. Nancy Anderson V. Berlin Township
7. Berlin Township ADS. Michael Brown
8. 2009 Real Estate Tax Appeal

PUBLIC WORKS DEPARTMENT

Michael McGee, Public Works Director talked to Mayor and Council about putting up 2 more pole barns. The public works department put up 2 last year that would have cost around \$250,000.00, we put it up for about \$16,000.00. We have money in the budget and it would cost around the same amount as the others.

SEPTEMBER 14, 2009

POLICE DEPARTMENT

Chief Joe Jackson stated Ron Silvestro has been working on traffic affairs for the department and has recommended that there be painted boxes on Franklin Avenue and Grove, to keep the traffic flowing. Another concern is the bend on Cooper Avenue, we have had a few serious accidents, it is dark at night and anything we can do to light that up.

MAINTENANCE / ZONING DEPARTMENT

Michael Laginestra, Maintenance/ Zoning Officers stated that the property on Pine Avenue that had the fire has been sold at an auction. A contractor has bought it and plans on fixing it up, so we should not be getting anymore complaints.

SECOND READING AND PUBLIC HEARING ORDINANCE 2009-11 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATIONS LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A:4-45 14)

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

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

WHEREAS, the Mayor and Council of the Township of Berlin in the County of Camden finds it advisable and necessary to increase its SFY 2010 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Mayor and Council hereby determines that a 1.0 % increase in the budget for said year, amounting to \$60,653.32 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

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

NOW THEREFORE BE IT ORDAINED, by the Mayor and Council of the Township of Berlin, in the County of Camden, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the SFY 2010 budget year, the final appropriations of the Township of Berlin shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 1.0 %, amounting to \$60,653.32 , and that the

SEPTEMBER 14, 2009

SFY 2010 municipal budget for the Township of Berlin be approved and adopted in accordance with this ordinance; and,

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

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

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

Motion by Council President DiGangi, 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 2009-11. There were no requests to be heard. Motion by Councilman Batten, second by Council President DiGangi to close the meeting to the public. Motion carried by voice vote, all present voting in favor. Motion by Councilman Batten, second by Council President DiGangi to adopt Ordinance 2009-11. Ordinance adopted by call of the roll, four members present voting in the affirmative.

SECOND READING AND PUBLIC HEARING ORDINANCE 2009-12 AMENDING ORDINANCE 2008-17 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 2008-17 on January 26, 2009 fixing and determining salary ranges for the officers and employees for the calendar year 2009; and

WHEREAS, it is the desire of the Mayor and Council of the Township of Berlin to amend the following salary ranges effective August 3, 2009:

POSITIONSALARY RANGE.....	
	FROM	TO
Mayor	\$27,000.00	\$32,000.00
Office Manager	0.00	0.00
Township Clerk	40,000.00	45,000.00
Owners Representative for New Mun.Bldg.	0.00	25.00 per hr. – up to 2 hrs. per day (10 hrs. per wk max.)

SEPTEMBER 14, 2009

Motion by Council President DiGangi, second by Councilman Batten to open the meeting to the public. Motion carried by voice vote, all present voting in the affirmative. Mayor Magazzu opened the meeting to the public for comments. No comments were to be heard. Motion by Councilman Batten, second by Councilman McIntosh to close the meeting to the public. Motion carried by voice vote, all present voting in the affirmative

RESOLUTION 2009-158 RESOLUTION TO REFUND AN OVERCHARGE FOR CONSTRUCTION PERMIT # 2009-109 .

WHEREAS, John Langan of Voorhees New Jersey had applied for a construction permit # 2009-109 for 439 Kelley Drive, Block 1203, Lot 49 in the Township of Berlin , Camden County, New Jersey; and

WHEREAS, an incorrect amount was entered in the computer program resulting in a higher permit fee of \$1646.00.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Berlin, Camden County, New Jersey that a refund be issued for the amount of \$1646.00 to John Langan of Voorhees, New Jersey and a new permit be issued.

Motion by Councilman Batten, second by Council President DiGangi to adopt Resolution 2009-158. Resolution adopted by call of the roll, four members present voting in the affirmative.

RESOLUTION 2009-159 RESOLUTION CONFIRMING THE MAYOR 'S SIGNING OF AGREEMENT FOR NEW UNDERGROUND THREE PHASE PADMOUNT TRANSFORMER SERVICES FOR ATLANTIC CITY ELECTRIC.

WHEREAS, it was necessary for the Mayor to sign contract agreement with Atlantic City Electric for installation of an Underground Three Phase Primary Upgrade Padmount Transformer for the Municipal building site; and

WHEREAS, the cost of providing this service is \$7,622.23, and will take ninety day to commence installation from the time the payment is received; and

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township Of Berlin that it hereby authorizes and approves of the signing of agreement with the Atlantic City Electric Company for the cost of \$ 7,622.23 for the cost of services to be provided.

Motion by Council President DiGangi, second by Councilman McIntosh to adopt Resolution 2009-159. Resolution adopted by call of the roll, four members present voting in the affirmative.

RESOLUTION 2009-160 RESOLUTION TO REFUND AN OVERCHARGE FOR CONSTRUCTION PERMIT # 2009-124 HOVBROS.

SEPTEMBER 14, 2009

WHEREAS, HovBros, had applied for a construction permit # 2009-124 for 104 Piedmont Blvd, Block 2404, Lot 3, in the Township of Berlin , Camden County, New Jersey; and

WHEREAS, an incorrect amount was entered in the computer program resulting in a higher permit fee of \$2993.00.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Berlin, Camden County, New Jersey that a refund be issued for the amount of \$2993.00 to HovBros, New Jersey and a new permit be issued.

Motion by Council President DiGangi, second by Councilman McIntosh to adopt Resolution 2009-160. Resolution adopted by call of the roll, four members present voting in the affirmative.

**RESOLUTION 2009- 161 TO ENTER IN TO AGREEMENT FOR YEAR 31
COMMUNITY DEVELOPMENT GRANT AGREEMENT.**

WHEREAS, a cooperative agreement was heretofore entered into between the Township of Berlin and the County of Camden for the establishment of a cooperative means of conducting certain community development activities; and

WHEREAS, the Uniform Shared Services and Consolidation Act. (N.J.S.A.40A:65-4 et seq.) permits local units such as counties and municipalities to enter into agreement for the provisions of joint services; and

WHEREAS, the county has achieved "Urban County" status in accordance with the requirements set forth in Title I of the Housing and Community Development Act of 1974, as amended and the Housing and Urban-Rural Act of 1983; and

WHEREAS, the County has entered into a grant agreement with the U.S. Department of Housing and Urban Development under Title I of the Housing and Community Development Act, as amended, for an Entitlement Grant; and

WHEREAS, this Grant is administered for the County by the County's Community Development Office; and

WHEREAS, the Township of Berlin has proposed certain activities to be carried out under the 31st Year Program; and

WHEREAS, the County has approved funding for eligible project of the Township of Berlin from said grant and desires the Township of Berlin to undertake said project.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body , that the Year 31 Municipal CDGB Grant Agreement be adopted between the Township of Berlin and the County of Camden; and

SEPTEMBER 14, 2009

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately upon its enactments provided by law.

Motion by Council President DiGangi, second by Councilman Batten to adopt Resolution 2009-161. Resolution adopted by call of the roll, four members present voting in the affirmative.

RESOLUTION 2009-162 RESOLUTION CONFIRMING THE SIGNING OF AGREEMENT WITH ATLANTIC CITY ELECTRIC.

WHEREAS, it was necessary for the Mayor and Council to sign contract agreement with Atlantic City Electric to relocate a pole at the Municipal building site; and

WHEREAS, the cost of providing this service is \$3,578.57; and

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township Of Berlin that it hereby authorizes and approves of the signing of agreement with the Atlantic City Electric Company for the cost of \$ 3,578.57 for the cost of services to be provided.

Motion by Council President DiGangi, second by Councilman McIntosh to adopt Resolution 2009-162. Resolution adopted by call of the roll, four members present voting in the affirmative.

RESOLUTION 2009-163 RESOLUTION TO AWARD CONSTRUCTION QUALITY CONTROL AND MATERIAL TESTING SERVICES FOR MUNICIPAL BUILDING

WHEREAS, In accordance with the Department of Community Affairs DCA the Governing Body of the Township will hire special inspectors independent of the contractor to perform field inspections as required on the Municipal Site; and

WHEREAS, a proposal was received from Craig Testing Laboratories and based upon review from the Solicitor of the Township of Berlin the materials submitted by Craig Testing Laboratories meet all requirements set forth; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Berlin that Craig Testing Laboratories be awarded for the Construction Quality Control Material Testing Services for the Municipal Building site.

Motion by Council President DiGangi, second by Councilman Batten to adopt Resolution 2009-163. Resolution adopted by call of the roll, four members present voting in the affirmative.

RESOLUTION 2009-164 REQUEST FOR REDUCTION OF PERFORMANCE SURETY BOND FOR MONTEBELLO, SECTION 3A COMMUNITY CENTER

SEPTEMBER 14, 2009

WHEREAS, Hovbros Berlin, L.L.C., 900 Birchfield Drive, Mount Laurel, New Jersey, has requested, on behalf of Montebello, Sections 3A Community Center, a bond reduction, and

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

**Bond No. SU1001780 Section 3, Recreation Area and Clubhouse:
Bond Amount of \$1,692,614.40 be reduced to \$795,532.80**

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

Motion by Council President DiGangi, second by Councilman McIntosh to adopt Resolution 2009-164. Resolution adopted by call of the roll, four members present voting in the affirmative.

RESOLUTION 2009- 165 RESOLUTION CONFIRMING THE HIRING OF A NEW CROSSING GUARD

WHEREAS, the current part time crossing guard, Joann Miller resigned; and

WHEREAS, it is necessary to hire a new Crossing Guard, for the Township of Berlin;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Berlin that Carol Cannan be hired as a part time Crossing Guard, effective September 8, 2009.

Motion by Councilman Batten, second by Councilman McIntosh to adopt Resolution 2009-165. Resolution adopted by call of the roll, four members present voting in the affirmative.

RESOLUTION 2009-166 TOWNSHIP OF BERLIN

AWARDING CONTRACT RESOLUTION

WHEREAS, the Township of Berlin has advertised for, and received bids for the purpose of the **Purchase and/or Lease of A Senior Citizens Bus (Funded by C.D.B.G. Years 30 and 31)**; and

WHEREAS, the low bid of \$ 60,749.00 was received from American Bus and Coach, LLC; and

SEPTEMBER 14, 2009

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 \$60,749.00 for the Purchase of a 2009 Senior Citizens Bus is hereby awarded to American Bus and Coach LLC of Trenton, 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 all funds expended for this Contract shall be charged to CDBG Grant Years 30 and 31 and Mayor and Council – Other Expenses.
3. That the bid documents and bidding procedures have been reviewed and approved by the Municipal Solicitor.
4. That the presiding officer of this body be and is hereby directed to sign for and on its behalf the Contract for said services.
5. That the clerk of this body be and is hereby directed to seal said Contract with the corporate seal of this body and attest to the same.
- 6. This Resolution hereby authorizes the Mayor and Clerk to endorse the Contract document.**

Motion by Council President DiGangi, second by Councilman Batten to adopt Resolution 2009-166. Resolution adopted by call of the roll, four members present voting in the affirmative.

RESOLUTION 2009-167 RESOLUTION AUTHORIZING CHANGE ORDER NO. 4 AND FINAL.

WHEREAS, it was necessary to make changes in the scope of work to be done in completing the **2008 Street Improvements** in the Township of Berlin, Camden County, New Jersey:

WHEREAS, Change order No. 4 (final) was developed to itemized and authorize those changes.

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

NOW, THEREFORE, BE IT RESOLVED by the Township of Berlin that Change Order No. 4 (final) is hereby authorized and approval is hereby granted to adjust the contract amount from \$270,640.30 to \$ 265, 252.05 (decreased of \$5,388.25)

Motion by Council President DiGangi, second by Councilman McIntosh to adopt Resolution 2009-167. Resolution adopted by call of the roll, four members present voting in the affirmative.

SEPTEMBER 14, 2009

Resolution 2009-168

Payment of Bill September 14, 2009

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

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

TO	ACCOUNT	AMOUNT
Camden County Animal Shelter	Dog Trust	440.00
Blackwood Animal Hospital	Dog Trust	240.00
Treasurer, State of NJ	Dog Trust	1.20
Robert E DePersia, II	Mun Public Defender	75.00
John Iannelli	Mun Public Defender	1,200.00
KEI Associates	Planning Board Esc # 308	4,212.50
	Planning Board Esc # 314	368.75

CONFIRMING

Treasurer, State of NJ	Dog Trust	22.80
Atlantic City Electric	04-216-55-860-09021	3,578.57
Glendale Excavating	04-216-55-860-70802	2,000.00
Treasurer State of NJ	12-201-45-920-2105	5,709.79
	12-201-45-930-2105	2,063.10
America On Line	01-201-20-120-2105	32.90
Atlantic City Electric	01-201-31-435-2075	5,834.64
	01-201-31-435-2071	3,878.37
	01-167-05-010-3000	7,622.33
AT & T	01-201-31-440-2076	602.76
Frank Kull Inc.	01-213-84-028-3000	1,781.46
Gallagher Building	01-213-84-028-3000	25,000.00
	01-213-84-028-3000	1,550.00
Greenworks	01-213-85-029-3000	1,500.00
	01-213-84-028-3000	8,658.00
	01-213-84-028-3000	2,275.00
	01-213-84-028-3000	575.00
	01-213-84-028-3000	2,280.00
IKON	01-201-20-120-2023	141.19
	01-201-20-145-2023	77.48

SEPTEMBER 14, 2009

	01-201-43-490-2023	79.10
	01-201-29-390-2105	79.10
	01-201-25-240-2033	12.17
	01-201-26-310-2020	79.10
	01-201-22-195-2023	79.97
Mark A Bresani	01-201-41-727-2105	13,500.00
	01-213-77-021-3000	212.00
	01-213-84-028-3000	13,059.00
Mini Mobile	01-201-26-310-2155	202.70
Nextel	01-201-31-440-2076	48.99
Pine Hill Community Education	01-203-20-110-2105	1,411.66
Postmaster	01-201-20-120-2022	303.44
ShipShape Landscape	01-117-04-006-3000	50.00
State of NJ	01-165-05-010-3000	470.94
TD Bank	01-201-45-930-2105	41,134.39
	01-170-05-010-3000	7,542.50
	01-201-45-930-2105	34,893.03
	01-170-05-010-3000	17,538.22
XtelCommunications	01-201-31-440-2076	630.92
Verizon Wireless	01-201-25-240-2028	280.49
NJ State Health	01-201-23-220-2092	39,871.14
	01-201-23-220-2092	39,337.90
	01-201-23-220-2092	16,021.19
	01-201-23-220-2092	16,422.83
Payroll, Current Fund	7/2/2009	55,945.57
Payroll, Sewer	7/2/2009	3,901.09
Payroll, Current Fund	7/9/2009	63,642.40
Payroll Sewer	7/9/2009	4,248.05
Payroll, Current Fund	7/16/2009	73,103.87
Payroll, Sewer	7/16/2009	3,900.97
Payroll, Current Fund	7/23/2009	56,387.05
Payroll, Sewer	7/23/2009	3,901.01
	7/30/2009	77,299.43
	7/30/2009	4,255.65
	8/6/2009	58,409.79
	8/6/2009	4,505.65
	8/13/2009	57,740.82
	8/13/2009	4,255.56
	8/20/2009	56,024.38
	8/20/2009	4,250.09
	8/27/2009	77,649.84

Motion by Councilman Batten, second by Councilman McIntosh to adopt Resolution 2009-168. Resolution adopted by call of the roll, four members present voting in the affirmative.

RESOLUTION 2009-169 RESOLUTION TO RELEASE MAINTENANCE BOND FOR THE FIREPLACE PEOPLE, ROUTE 73, BLOCK 1601, LOT 2

WHEREAS, The Fireplace People, NJSH Route 73, Township of Berlin, Camden County, New Jersey, Block 1601, Lot 2., has requested the release of their maintenance bond; and

WHEREAS, the Engineer has recommended that the Township grant the request for the release of the maintenance bond as all requirements have been met;

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 the Maintenance Bond for The Fireplace People is hereby granted.

Motion by Council President DiGangi, second by Councilman McIntosh to adopt Resolution 2009-169. Resolution adopted by call of the roll, four members present voting in the affirmative.

RESOLUTION 2009-170 RESOLUTION TO REDUCE LETTER OF CREDIT FOR KEPPLER ENTERPRISES, INC

WHEREAS, Kepple Enterprises Inc. 110 Cushman Avenue, West Berlin, Camden County, NJ Block 1502, Lot 1.02 has requested a reduction of his letter of credit .

WHEREAS, the Engineer has recommended that the Township grant the request for the following reduction:

Letter of Credit # 86000338 in the amount of \$ 108,972.00 to be reduced to the amount of \$ 68,737.20

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Berlin that the request for reduction for Kepple Enterprises be reduced as stated above.

Motion by Councilman Batten, second by Council President DiGangi to adopt Resolution 2009-170. Resolution adopted by call of the roll, four members present voting in the affirmative.

RESOLUTION 2009-171 RESOLUTION FOR REDUCTION OF PERFORMANCE BOND FOR MONACO PLAZA .

SEPTEMBER 14, 2009

WHEREAS, Pepe DiVentura, Monaco Plaza, located at Cross Keys Road and Fairfax Avenue, West Berlin, Camden County, NJ Block 101, Lot 1, 2 & 3 has requested a reduction of his performance bond.

WHEREAS, the Engineer has recommended that the Township grant the request for the following reduction:

Performance Bond # 56635 in the amount of \$ 570,879.60 to be reduced to the amount of \$230,560.80

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Berlin that the request for reduction for Pepe Di Ventura, Monaco Plaza be reduced as stated above.

Motion by Councilman McIntosh, second by Council President DiGangi to adopt Resolution 2009-171. Resolution adopted by call of the roll, four members present voting in the affirmative.

RESOLUTION 2009-172 RESOLUTION FOR REDUCTION OF PERFORMANCE BOND FOR SAHARA SAM'S INDOOR WATER PARK.

WHEREAS, Sahara Sam's Indoor Water Park 535 route 73, West Berlin, Camden, NJ Block 1101 Lot 16 has requested a reduction of his performance bond.

WHEREAS, the Engineer has recommended that the Township grant the request for the following reduction:

Performance Bond # 08893522 in the amount of \$ 2,033,388.00 to be reduced to the amount of \$ 26,047.50

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Berlin that the request for reduction for Sahara Sam's Indoor Water Park be reduced as stated above.

Motion by Councilman McIntosh, second by Council President DiGangi to adopt Resolution 2009-172. Resolution adopted by call of the roll, four members present voting in the affirmative.

APPROVAL FOR KENNEL LICENSE FOR BEST FRIENDS PET RESORT

Motion by Councilman McIntosh, second by Council President DiGangi to approve kennel license for Best Friends Pet Resort. Licensed approved by call of the roll, four members present voting in the affirmative.

CONSENT AGENDA

SEPTEMBER 14, 2009

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

APPROVAL OF AUGUST 3, 2009 MINUTES

Motion by Councilman McIntosh, second by Council President DiGangi to approve the minutes of August 3, 2009. Motion carried by voice vote, all present voting in the affirmative.

APPROVAL OF CORRESPONDENCE CALENDAR FOR JULY / AUGUST

Motion by Council President DiGangi, second by Councilman McIntosh to receive and file the correspondence calendar for July and August 2009. Motion carried by voice vote, all present voting in the affirmative.

GOOD & WELFARE #2

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

Chief Jackson commented that there has not been any flooding to report on Walker Avenue.

No more comments were to be heard

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

ALL OTHER BUSINESS

We are now discussing with Peace the Halloween Parade/funfest. Will be having a meeting this week to decide on the day to hold it since Halloween falls on a Saturday.

FIRST READING ORDINANCE 2009-15 ORDINANCE AMENDING CHAPTER 41 OF THE CODE OF THE TOWNSHIP OF BERLIN CAPTIONED "BRUSH, GRASS AND WEEDS"

Motion by Councilman Batten, second by Council President DiGangi to adopt Ordinance 2009-15 on first reading by title. Ordinance adopted by call of the roll, four members present voting in the affirmative.

RESOLUTION 2009-173 CLOSED SESSION

BE IT RESOLVED by the Mayor and Council of the Township of Berlin that the Mayor and Council are now going into closed session to discuss personal matters of the Township.

SEPTEMBER 14, 2009

Motion by Councilman Batten, second by Councilman McIntosh to adopt Resolution 2009-173. Resolution adopted by call of the roll, four members present voting in the affirmative.

ADJOURN

Motion by Councilman Batten, second by Council President DiGangi to adjourn the meeting at 8:00 pm. Motion carried by voice vote, all members present voting in the affirmative.

Meeting adjourned 8:00 pm

Catherine Underwood, Township Clerk