

JUNE 8, 2020

SPECIAL MEETING OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF BERLIN, CAMDEN COUNTY, NEW JERSEY AT BERLIN TOWNSHIP MUNICIPAL HALL JUNE 8, 2020 AT 5:30 PM

(Meeting was by telephone conference due to Coronavirus)

Mayor Magazzu opened the meeting by telephone 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, Council President, Morris, Councilman Epifanio, Councilwoman Bodanza, Councilman Sykes

Also Present- Solicitor, Stuart Platt, Chief of Police Leonard Check, Lt. Wayne Bonfiglio, Township Engineer / Public Works Director, Chuck Riebel, Property Maintenance / Animal Control, Josh Shellenberger
Chief Financial Officer, Joyce Tinnes

Public Present- Carolyn Picciotti, Sue Carlino, Andy Likogiannis

Absent-

Departmental Reports

SOLICITOR

Stuart Platt Township solicitor commented that on resolutions 2020-123 item #4 should be reversed with the Police Department, Fire Department, Construction Official, Health Official and Development Review committee shall all review the application, once completed the Zoning Official will issue the permit along with any conditions.

POLICE DEPARTMENT

Chief Check commented that this will be his last meeting and thanked the Governing Body for all of their support during his 8 years as Chief of Police. Chief Check will be retiring on June 30th 2020.

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Lt. Wayne Bonfiglio reported that over the weekend a protest march had taken place in Berlin Borough. Lt Bonfiglio stated that the department was present and the protest was a peaceful one, with no issues.

SECOND READING PUBLIC HEARING ORDINANCE 2020-2 AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION 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 up 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 CY 2020 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 \$78,475.87 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

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

NOW THEREFORE BE IT ORDAINED, by the Mayor and Council of the Township of Berlin, in the County of Camden, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2020 budget year, the final appropriations of the Township of Berlin shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5 %, amounting to \$274,665.53, and that the CY 2020 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.

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Motion by Councilman Sykes, 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 2020-2.

No comments were to be heard.

Motion by Councilman Sykes second by Council President Morris 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 2020-2.

Motion by Councilman Epifanio second by Councilman Sykes adopt Ordinance 2020-2. Ordinance approved by call of the roll, five members present voting in the affirmative.

RESOLUTION 2020-118 ADOPTING THE 3-YEAR COOPERATION AGREEMENT WITH THE COUNTY OF CAMDEN.

WHEREAS, the **Township of Berlin** and the County of Camden wish to establish a cooperative means of conducting certain eligible community development and affordable housing 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 agreements for the provision of joint services; and

WHEREAS, Title 1 of the Housing and Community Development Act of 1974, the Housing and Urban-Rural Recovery Act of 1983, the HOME Program Act of 1991, and the Emergency Solutions Grant, as amended, provides federal funds being made available to Camden County for use to carry out eligible Community Development Activities therein; and

WHEREAS, the **Township of Berlin** will propose certain activities to be carried out under the 2021, 2022 and 2023 Community Development, HOME Programs and Emergency Solutions Grant programs; and

WHEREAS, the aforesaid activities are in the best interest of the **Township of Berlin** and the County of Camden;

NOW, THEREFORE, BE IT RESOLVED, by the **Mayor and Council** of the **Township** of the **Berlin** that the 2021 to 2023 Cooperation Agreement be adopted;

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon its enactment.

Motion by Council President Morris second by Councilman Epifanio to adopt resolution 2020-118. Resolution adopted by call of the roll, five members present voting in the affirmative.

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RESOLUTION 2020-119 RESOLUTION OF THE TOWNSHIP OF BERLIN AUTHORIZING, THE IMPOSITION OF LIENS IN ACCORDANCE WITH CHAPTER 249 OF THE CODE OF THE TOWNSHIP OF BERLIN ENTITLED, "PROPERTY MAINTENANCE.

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 249 of the Code of the Township of Berlin 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:

Property: Block/Lot REASON

308 Grove Ave, B-903 L-6 Lawn care
Haddon/Veterans Ave. B-625 L-8.01 Lawn care
319 Hazel Ave. B-1815 L-5 Lawn care

WHEREAS, pursuant to Chapter 249 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 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:

Property: Block/Lot Date Charged Amount Reason

308 Grove Ave. B903 L-6 June 8, 2020 \$70.00 lawn care
Haddon/Veterans Ave. B-625 L-8.01 June 8, 2020 \$65.00 lawn care
319 Hazel Ave. B-1815 L-5 June 8, 2020 \$65.00 lawn care

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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 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 until said charges are paid the lien is released in the matter required by law.

Motion by Council President Morris second by Councilman Epifanio to adopt resolution 2020-119. Resolution adopted by call of the roll, five members present voting in the affirmative.

RESOLUTION 2020-122 RESOLUTION APPOINTING ACTING CHIEF OF POLICE.

WHEREAS, On July 1, 2020, Leonard Check will hereby retire from his position as Chief of Police for the Township of Berlin; and

WHEREAS, as a result of Chief Check's retirement, there is a need to appoint an Acting Chief of Police to fulfill the duties; and

WHEREAS, there were several qualified candidates, each of whom are a credit to their profession and possess the skills and knowledge necessary for the position of Chief of Police; and

WHEREAS, the Governing Body has chosen a candidate for promotion based upon the test scores and personal interviews and the ability of the candidate to lead and work with the department and the Township; and

NOW BE IT RESOLVED, by the Mayor and COUNCIL of the Township of Berlin, County of Camden and State of New Jersey, hereby promotes Lieutenant Wayne Bonfiglio as Acting Chief of Police effective July 1, 2020 for a period of 6 months.

FURTHER BE IT RESOLVED that after the 6 months period an evaluation will be performed by the Mayor and Council of the Township of Berlin, to determine if permanent appointment as Chief of Police is obtained.

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Motion by Council President Morris second by Councilman Epifanio to adopt resolution 2020-122. Resolution adopted by call of the roll, five members present voting in the affirmative.

RESOLUTION 2020-123 PERMITTING TEMPORARY COVID-19 OUTDOOR DINING AND SEATING FOR EXISTING RESTAURANTS, INCLUDING THOSE THAT POSSESS A VALID AND ACTIVE RETAIL CONSUMPTION LIQUOR LICENSE BUSINESS WITHIN BERLIN TOWNSHIP.

WHEREAS, as a result of the dangers posed by the Coronavirus disease 2019 (COVID-19) the Governor of New Jersey has issued several Executive Orders, prohibiting and restricting certain activities during the COVID-19 outbreak; and

WHEREAS, on June 3, 2020, the Governor signed Executive Order No. 150, establishing options for outdoor food and/or beverage consumption to accommodate the lack of indoor dining options as a result of COVID-19, beginning at 6:00 a.m. on June 15, 2020; and

WHEREAS, the Governor's Executive Order No. 150 authorizes the Township of Berlin to determine how "restaurants or bars to expand their services footprint on their property and partially into shared spaces in a way that comports with public safety"; and

WHEREAS, it is the desire of the Mayor and Council for the Township of Berlin to allow for temporary outdoor dining and seating during the COVID-19 outbreak with conditions and to minimize bureaucratic delay, subject to the lawful process that will protect the interest, health and safety of the public.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Berlin, within the County of Camden, State of New Jersey, that restaurant owners must comply with the following:

1. The applicant must submit six (6) completed Temporary COVID-19 Outdoor Dining and Seating Application to the Township Zoning Officer.
2. The applicant must submit a layout plan; which can be a site plan, marked site plan, hand drawn sketch, marked Google aerial photograph or similar plan depicting:
 - a. the layout of all tables and seating with spacing dimensions,
 - b. all pedestrian ways with the respective widths,
 - c. travel route(s) for restaurant employees, between the kitchen and the outdoor dining and seating area,
 - d. depiction of all parking spaces to remain, to be eliminated as a result of the outdoor dining and seating area, handicap parking spaces and accessible routes and vehicular routes.
 - e. provisions for protecting dining and seated patrons from vehicles,

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- f. maintaining provisions for delivering vehicles to occupy and maneuver to and from the designated loading zone,
 - g. provisions for clear access to the designated refuse enclosure/container storage area and adequate and safe travel routes through the site,
 - h. if proposed, the locations, sizes, clearance and overall heights and materials for tent structures, including support and anchor provisions,
 - i. provisions for adequate lighting, relative to the outdoor dining and seating area and pedestrian and handicap access ways, along with the parking area and vehicular travel ways.
 - j. provisions ensuring that all litter and loose materials remain within the designated outdoor dining and seating areas.
3. The applicant must submit with the plan, a listing of the number of remaining parking spaces and demonstrate that the number of parking spaces complies with Section 340-95 of the Township Zoning Code for the number of proposed outdoor seats and employees.
 4. The applicant must submit six (6) sets of the completed application form and the plan, along with any other supporting documentation to the Zoning Officer. The Zoning Officer will submit the above-mentioned sets to the Police Department, Fire Official, Construction Official, Health Official and Development Review Committee for their review and written comments and recommendations, which will be submitted to the Zoning Officer for his review and consideration. The Zoning Officer will issue the Permit, with or without conditions or deny the application with the listed reasons for denial.
 5. Prior to the use of the outdoor dining and seating area, the Zoning Officer, along with any other Township Officials, will inspect the layout to ensure compliance with the Permit.
 6. The Township can, immediately, terminate a Permit for non-compliance with the conditions of the Permit, all applicable codes and the Governor's Executive Orders. The applicant will not be permitted to re-open the outdoor dining and seating area until all non-compliant conditions are addressed by the applicant, to the satisfaction of the Township. The Permit shall be terminated within 24 hours of the signing of Governor's Executive Order, eliminating the prohibition of the full use of the indoor dining and seating facilities or 120 days from the date of the adoption of this resolution, whichever is the lesser time period.
 7. All food preparation will be performed within the existing indoor kitchen.
 8. Patrons are prohibited from entering the indoor premises of the existing establishment, except to: a) travel through to enter and exit the outdoor dining and seating area, b) use the existing restroom facilities and c) to place an order, make payment and pick up a take-out order.
 9. Outdoor restrooms, toilets or others similar facilities are prohibited.
 10. Smoking is prohibited within any outdoor dining and seating areas, along with any pedestrian ways.

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11. The primary use of the outdoor dining and seating area shall be, primarily, for food consumption with beverages, if so desired. The consumption of alcoholic beverages is considered to be a secondary use. BYOB privileges for wine and malt alcoholic beverages are permitted within the temporary outdoor dining and seating area, if legally permitted and is permissible by the applicant.
12. Hours of operation of the outdoor dining and seating area shall be limited to between noon and 8:00 p.m., Sunday to Thursday and noon to 10:00 p.m., Friday and Saturday.
13. The applicant shall properly secure and/or remove all movable and loose items, during times of inclement weather and high winds.
14. Tents shall be open on all sides.
15. The applicant shall indemnify and save harmless the Township of Berlin, its employees, agents and officers from all claims, losses, liens, expenses, suits and attorney fees (liabilities) arising from the placement, operations and maintenance of the applicant's outdoor dining and seating area and all other related improvements and modifications.
16. The applicant must ensure that there shall be no amplification of outdoor noise, including music (live or otherwise), generated from the site.
17. All individuals shall wear a face covering while inside the existing building, unless patron has a medical reason for not doing so or is a child under two years of age. All employees shall wear face coverings and protective gloves while serving the patrons. All personal protective equipment for all individuals, COVID-19 related signage requirements for sanitation and social distancing, demarcation requirements for social distancing shall be consistent with the guidelines established by the Center for Disease Control ("CDC") and/or the Governor of the State of New Jersey.
18. The applicant shall comply with all applicable Federal, State, County and Township rules, regulations, laws and ordinances, which apply to the site and the proposed outdoor dining and seating areas and related improvements.
19. The applicant must comply with all governing rules, regulations of the New Jersey Division of Alcoholic Beverage Control ("ABC").
20. The applicant shall comply with the conditions of all current and future Governor's Executive Orders.

Motion by Council President Morris second by Councilman Epifanio to adopt resolution 2020-123. Resolution adopted by call of the roll, five members present voting in the affirmative.

RESOLUTION 2020-124 APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE IMPROVEMENTS TO VARIOUS STREET PROJECTS.

NOW, THEREFORE, BE IT RESOLVED that Council of Berlin Township formally approves the grant application for the above stated project.

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BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as **MA-2021-Improvements to Various Streets-00355** to the New Jersey Department of Transportation on behalf of Berlin Township.

BE IT FURTHER RESOLVED that Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Township of Berlin and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

It is hereby certified that the foregoing is a true and correct copy of a resolution duly adopted by the Mayor and Council for the Township of Berlin at a meeting held June 8, 2020.

Motion by Council President Morris second by Councilman Epifanio to adopt resolution 2020-124. Resolution adopted by call of the roll, five members present voting in the affirmative.

Approval of May 11, 2020 Special Meeting Minutes.

Motion by Councilwoman Bodanza second by Councilman Epifanio to approve the Special Meeting Minutes for May 11, 2020. Motion carried by voice vote, five members present voting in the affirmative.

Approval of May 29, 2020 Special Meeting Minutes.

Motion by Councilman Epifanio second by Councilwoman Bodanza to approve the Meeting Minutes for May 29, 2020. Motion carried by voice vote, five members present voting in the affirmative.

Approval of the Correspondence Calendar for May 2020

Motion by Councilman Epifanio, second by Council President Morris to approve the Correspondence Calendar for May 2020. Motion carried by voice vote, five members present voting in the affirmative.

All Other Business.

- 1) Submission of N.J.D.O.T. Application for FY2021. Projects to be selected.**

RESOLUTION 2020-120 TO READ THE CY 2020 BUDGET BY TITLE ONLY.

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WHEREAS, N.J.S. 40A:4-8, as amended by L.2015, c. 95 14, 2015, provides that the budget may be read by title only at the time of the public hearing if a resolution is passed by not less than a majority of the full governing body, providing that at least one week prior to the hearing, a complete copy of the budget has been made available for public inspection, and has been available to each person upon request; and

WHEREAS, these two conditions have been met;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Berlin, County of Camden, New Jersey, that the budget shall be read by title only.

Motion by Council President Morris second by Councilman Epifanio to adopt resolution 2020-120. Resolution adopted by call of the roll, five members present voting in the affirmative.

PUBLIC HEARING ON THE CY 2020 BUDGET.

Mayor Magazzu asked for a motion to open up the meeting to the public for comments on the 2020 Budget

Motion by Councilman Sykes, 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.

No comments were to be heard.

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

RESOLUTION 2020-121 RESOLUTION TO ADOPT THE CY 2020 BUDGET.

BE IT RESOLVED, by the Mayor and Township Council of the Township of Berlin, County of Camden that the budget hereinbefore set forth is hereby adopted and shall constitute an appropriation for the purposes states of the sums therein set forth as appropriations, and authorization of the amount of:

- a) \$7,758,746.60 (Item 2 below) for municipal purposes, and
- d) \$ 250,167.00 for Open Space, Recreation, Farmland and Historic Preservation Trust Fund Levy

Current Fund

1. General Revenues

Surplus Anticipated 08-100\$1,000,000.00

Miscellaneous Revenues Anticipated 13-099 1,771,321.93

Receipts from Delinquent Taxes 15-499 350,000.00

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2. Amount Raised by Taxation for Municipal Purposes
(Item 6(a), Sheet 11) 07-190 7,758,746.60

Total Revenues 13-299 \$10,880,068.53

5. General Appropriations:

Within "CAPS"

(a & b) Operations Including Contingent 34-201 \$7,119,334.00

(e) Deferred Charges and Statutory Exp 34-209 914,455.27

Excluded from "CAPS"

(a) Operations – Total Operations Excluded 34-305 107,814.93 (c) Capital Improvements 44-999 810,000.00

(d) Municipal Debt Service 45-999 922,000.00

(e) Deferred Charges – Municipal 46-999 0.00

(m) Reserve for Uncollected Taxes 50-899 1,006,464.33

Total Appropriations 34-499 \$10,880,068.53

Open Space, Recreation, Farmland and Historic Preservation Trust Fund

Amount to be Raised by Taxation 54-190 \$250,167.00

Total Revenues 54-299 \$250,167.00

Total Trust Fund Appropriations 54-999 \$250,167.00

Motion by Council President Morris second by Councilwoman Bodanza to adopt resolution 2020-121. Resolution adopted by call of the roll, five members present voting in the affirmative.

Public Portion

Motion by Councilman Epifanio, second by Council President Morris to open the meeting to the public. Motion carried by voice vote, all present voting in favor. Mayor Magazzu opened the meeting to the public for questions or comments.

Sue Carlino, 217 Clarence Avenue asked what is the difference in appointing an Acting Police Chief verse a regular Chief.

Stuart replied that municipalities go on a trail base.

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Mayor Magazzu stated the last time we appointed a chief it was for acting also.

Sue asked if we have heard anything about the defunding of police departments.

Mayor Magazzu replied no.

Sue asked when will the minutes be posted on the website since it has been awhile.

Mayor Magazzu replied that we are in the process of changing the website.

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 Councilman Sykes, second by Councilman Epifanio to adjourn the meeting at 6:35 pm. Motion carried by voice vote, all members voting in the affirmative.

Meeting adjourned 6:35 pm

Motion to reopen the meeting to the public

Motion by Councilman Epifanio, second by Councilman Sykes to re-open the meeting at 6:35 pm. Motion carried by voice vote, all members voting in the affirmative.

Andy, Owner of Victory Lane asked Mayor and Council for help in getting the outside dining area open as soon as possible.

Mayor Magazzu replied that the Township has been working the last couple of days and has past a resolution at tonight meeting.

Motion by Council President Morris, second by Councilman Sykes to adjourn the meeting at 6:50 pm. Motion carried by voice vote, all members voting in the affirmative.

Meeting adjourned 6:50 pm

**Catherine Underwood
Berlin Township RMC**

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