

MAY 20, 2021

SPECIAL MEETING OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF BERLIN, CAMDEN COUNTY, NEW JERSEY AT BERLIN TOWNSHIP MUNICIPAL HALL May 20, 2021 AT 5:30 P.M.

(Meeting was held by telephone due to Coronavirus)

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, Council President, Morris, Councilman Epifanio, Councilwoman Bodanza,

Also Present- Solicitor, Stuart Platt, CFO, Alex Davidson

Public- Resident, Carolyn Picciotti, Domenic Mezzatesta, from Nurture Pet, Resident Mark Reid

As required by N.J.S.A.40A:16-5 that the appropriate political party of the member vacancy will nominate three candidates to the governing body. As such the Democratic Committee of Berlin Township has conferred and is hereby submitting the following names for consideration by the Governing Body to replace Councilman Sykes.

Motion by Council President Morris seconded by Councilwoman Bodanza to appoint Mark Reid as Councilman for the Township of Berlin, County of Camden.

RESOLUTION 2021-109 RESOLUTION TO FILL BERLIN TOWNSHIP COUNCILMEMBER VACANCY.

WHEREAS, Berlin Township Councilman Samuel Sykes has unfortunately handed in his letter of resignation as of May 11, 2021 causing a vacancy in his seat as a member of the Berlin Township Council; and

WHEREAS, the Township of Berlin Governing Body shall fill the current vacancy within 30 days of the effective vacancy date by selecting one of three candidates nominated by the appropriate political party in accordance of N.J.S.A.40A:16-5; and

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of the Township of Berlin, hereby appoints **Mark Reid** as a Council Member for the Township of Berlin, County of Camden for the unexpired vacancy.

Motion by Council President Morris second by Councilwoman Bodanza to adopt resolution 2021-109. Resolution adopted by call of the roll, four members present voting in the affirmative.

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Oath of Office was administered to the newly appointed Councilmember Mark Reid.

Roll call was called with the newly elect Councilman Mark Reid

SECOND READING AND PUBLIC HEARING ORDINANCE 2021-4 TO AMEND THE CODE OF THE TOWNSHIP OF BERLIN, CHAPTER 340 AND CHAPTER 374 TO PROHIBIT THE OPERATION OF ANY CLASS OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES.

WHEREAS, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called “cannabis” for adults at least 21 years of age; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

WHEREAS, the Act establishes six marketplace classes of licensed businesses, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;
- Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis

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delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

WHEREAS, Section 31a of the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments (defined in Section 3 of the Act as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”), cannabis distributors or cannabis delivery services allowed to operate within their boundaries, as well as the location manner and times operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

WHEREAS, Section 31b of the Act authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality; and

WHEREAS, Section 31b of the Act also stipulates, however, that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 22, 2021); and

WHEREAS, pursuant to Section 31b of the Act, the failure to do so shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

WHEREAS, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such ordinance would be prospective only and would not apply to any cannabis business already operating within the municipality; and

WHEREAS, the Township of Berlin has never adopted an enabling ordinance to allow for cannabis production, cultivation, processing, distribution, and/or retail in any form, whether for medical or recreational use within the Township of Berlin; and

WHEREAS, the Township of Berlin has never adopted any zoning ordinance and/or zoning amendment to allow for cannabis production, cultivation, processing, distribution, and/or retail in any form, whether for medical or recreational use within the Township of Berlin; and

WHEREAS, the Mayor and Township Council of the Township of Berlin has determined the following:

1. At present there are uncertainties regarding the future impacts that allowing one or more classes of cannabis business might have on New Jersey municipalities in general, and on the Township of Berlin in particular;

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2. There is a lack of clarity and direction in the Act;
3. There are potential negative impacts upon children in the Township;
4. There are potential detrimental impacts on residents in a small community such as the Township of Berlin;
5. The Township of Berlin is almost completely built-out and developed and there are does not appear to be any isolated areas for one or more classes of cannabis businesses; and
6. The Mayor and Council need more time to study and review the Act and its impact on the Township of Berlin and its residents.

WHEREAS, based upon the foregoing, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the Township of Berlin's residents and members of the public who visit, travel, or conduct business in the Township of Berlin to amend the Township of Berlin's Code and zoning regulations to prohibit all manner of marijuana-related land use and development within the geographic boundaries of the Township of Berlin; and

WHEREAS, many areas of municipal law are or may be implicated in decisions as to whether or to what extent cannabis or medical cannabis should be permitted for land use purposes or otherwise regulated in any particular municipality; and the relatively short duration in which the Act would allow such decisions to be made before imposing an automatic authorization of such uses in specified zoning districts subject to unspecified conditions, the most prudent course of action for all municipalities, whether or not generally in favor of cannabis or medical cannabis land development and uses, would be to prohibit all such uses within the Act's 180-day period in order to ensure sufficient time to carefully review all aspects of the Act and its impacts;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Township Council of the Township of Berlin, County of Camden and State of New Jersey as follows:

SECTION 1. New Chapter 374 of the Code of the Township of Berlin is hereby established as follows:

"Cannabis and Cannabis Products"

"Pursuant to Section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), all medical and recreational cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in the Township of Berlin, except for the delivery of cannabis items and related supplies by a delivery service."

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SECTION 2. Chapter 340 of the Code of the Township of Berlin is hereby amended and supplemented by adding to the list of prohibited uses with Section 230-17H as follows:

- H. "All classes of medical and recreational cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in Section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service."

SECTION 3. Any article, section, paragraph, subsection, clause, or other provision of the Code of the Township of Berlin inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

SECTION 4. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

SECTION 5. This ordinance shall take effect upon its passage and publication and filing with the Camden County Planning Board, Pinelands Commission and as otherwise provided for by law.

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 on Ordinance 2021-4.

No comments were to be heard.

Motion by Councilwoman Bodanza 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 2021-4

Motion by Councilwoman Bodanza second by Council President Morris to adopt Ordinance 2021-4. Ordinance approved by call of the roll, five members present voting in the affirmative.

Approvals of Mercantile Licenses

- 1) TSSM INC/DBA NURTURE PET, Joseph Michael Mezzatesta,**
200 Route 73 North West Berlin. Pet supplies store.

Mayor Magazzu and Township Solicitor Stuart Platt stated for the record that John Mezzatesta has signed an affidavit stating that he will never be a manager, employee or have any contact either directly or indirectly with any animal and pets with the above

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mercantile. Failure to follow agreement will result in the mercantile license to be revoked.

Motion by Council President Morris, second by Councilwoman Bodanza to approve the Mercantile License above. Mercantile License approved by call of the roll, five members present voting in the affirmative.

All Other Business

Mayor Magazzu stated that we still have not heard of any plans for Memorial Day this year but we will go ahead and order the wreaths and place them either way.

Public Portion

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.

No comments were to be heard

Motion by Councilwoman Bodanza, 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.

Berlin Township Governing Body congratulated the newly appointed Councilman Reid on his first official meeting and asked him to make a motion to adjourn his first meeting

Adjourn

Motion by Councilman Reid, second by Council President Morris to adjourn the meeting at 5:55 pm. Motion carried by voice vote, all members voting in the affirmative.
Meeting adjourned 5:55 pm

**Catherine Underwood
Berlin Township RMC**