

**AUGUST 8, 2022**

**MEETING OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF BERLIN,  
CAMDEN COUNTY, NEW JERSEY AT BERLIN TOWNSHIP MUNICIPAL HALL  
AUGUST 8, 2022 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, Council President Bodanza, Councilman Epifanio, Councilman Reid, Councilman McHenry.

**Also Present-** Solicitor, Stuart Platt, CFO, Township Engineer / Public Works Director, Chuck Riebel, Property Maintenance / Animal Control, Josh Shellenberger

**Absent-** CFO, Alex Davidson

Mayor Magazzu welcomed Cindy Johnson from the MS Bike to City to Shore Ride Event that will be held September 24<sup>th</sup> & 25<sup>th</sup> of 2022.

Cindy presented a plaque to the Governing Body for all the year Berlin Township has assisted as the riders' bike through our town.

**DEPARTMENTAL REPORTS**

**ENGINEERS REPORT**

**A. CHANGE ORDERS AND VOUCHERS**

None at this time.

**B. ORDINANCES AND RESOLUTIONS**

**1. ASPHALT HOT PATCHER DUMP TRAILER**

I recommend that the Governing Body consider awarding a contract, through the Houston-Galveston Area Council Cooperative Purchasing Agreement contract for Street Maintenance Equipment, Contract Number SM10-20, Spaulding Mfg., Inc. of Saginaw, Michigan, to be purchased from H.A. DeHart and Sons, Company of Thorofare, New Jersey dealer for Spaulding Manufacturing, as the Township is a member of this cooperative, for the total amount of \$43,550.00, conditional upon the Borough of Somerdale agreeing to said purchase.

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**2. AMENDING ORDINANCE FOR THE REVISED PINELANDS STORMWATER MANAGEMENT REGULATIONS**

Once the Pinelands staff releases the model ordinance, I recommend that the Governing Body consider introducing the amending ordinance for the amended Pinelands Area Stormwater Management regulations.

**3. REQUEST FOR THE RELEASE OF THE PERFORMANCE GUARANTEES FOR ROADWAY AND SITE IMPROVEMENTS (“BASE COURSE”) FOR THE MONTBELLO DEVELOPMENT, SECTIONS 5 AND 6**

The corrective work, still, must be performed for the release of these guarantees. Therefore, at this time I continue to recommend that the performance guarantees not be released until said work has been satisfactorily completed by the developer.

**4. REQUEST TO RELEASE PERFORMANCE BOND FOR WALMART SUPERSTORE**

Due to the unsatisfactory conditions I continue to recommend that the bond not be released to Walmart.

**C. ENGINEER’S REPORT**

**1. IMPROVEMENTS TO SPRUCE AVENUE, N.J.D.O.T FY19 MUNICIPAL AID FUNDING- \$150,000**

The Chief Financial Officer has informed me that the Township has received the final reimbursement from the NJDOT.

**2. IMPROVEMENTS TO DAY AVENUE- ROUTE 73 TO CLOVER AVENUE, N.J.D.O.T. FY20 MUNICIPAL AID FUNDING**

On October 25, 2021, the Governing Body awarded a contract to Gerald A. Barrett, LLC of Berlin, N.J. for \$145,804.92 for the Base Bid and Alternate No. 1. The contractor has commenced with the construction. The contract administration and inspection for this project is being handled by Key Engineers since they handled the project while I was out of the office, last year.

**3. IMPROVEMENTS TO MCCLELLAN AVENUE- HADDON AVENUE TO KRUMM AVENUE (N.J.D.O.T FY 2021 MUNICIPAL AID FUNDING- \$235,000) AND IMPROVEMENTS TO KRUMM AVENUE- MCCLELLAN AVENUE TO FRANKLIN AVENUE (N.J.D.O.T FY 2022 MUNICIPAL AID FUNDING- \$275,000)**

A contract for the improvements to McClellan Avenue must be awarded by November, 2022 and for Krumm Avenue by November, 2023. I have received the asphalt core results from the testing firm. The consulting engineer has provided me with the existing conditions plan for my use for the design of the project.

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**4. IMPROVEMENTS TO HADDON AVENUE BY CAMDEN COUNTY**

No update to report.

**5. N.J.D.O.T FY 2023 MUNICIPAL AID GRANT PROGRAM**

The application was submitted to the NJDOT for street improvements to the following streets:

1. Oak Avenue- NJDOT Ramp 'A' at Route 73 to 80 feet past Clover Avenue- \$207,500

2. Taunton Avenue- 150 feet southwest of Clover Avenue to 61 feet northeast of Oak Lane  
\$850,000

3. Mt. Vernon Avenue- Franklin Avenue to the elementary school exit drive, 128 feet past Lincoln Avenue  
\$420,500

Total Amount of Funding Requested      \$1,478,000

It is anticipated that the announcement of the selected projects will be made before the end of this year.

**6. CAMDEN COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT (C.D.B.G.) FUNDS**

**a. Year 2022 Application**

The application package for the improvements to and expansion of the playground at the Luke Avenue Recreation Complex was submitted to the Camden County CDBG. To date, we have not received any announcement of the selected projects for this grant. This is the same application, which was submitted for the last two rounds of funding.

**b. Remaining Funds from Previous Years**

The County CDBG Office has confirmed that there are \$42,298.57 of CDBG funds from previous years. The County CDBG Office has issued the County check for the expenditure of the remaining Year 15 funds, which must be expended by September 1, 2022 so the funds will not be recaptured by the Federal agency. We are preparing the construction plans for the proposed addition to the rear of the building. Mr. Simone has ordered the windows. The structure will be constructed by the Public Works staff. The mechanical, electrical and plumbing work will be contracted with the necessary licensed contractors.

**7. N.J. LOCAL RECREATION IMPROVEMENT GRANT- ADDITION TO THE SENIOR CITIZENS BUILDING**

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The State has awarded a \$75,000 reimbursable grant for the above-mentioned addition to the Senior Citizens Building, which amount is one of the larger amounts granted under this program. As directed by the N.J.D.C.A., the SAGE account has been amended so that the budget amount matches the grant amount.

The Township had applied for \$290,560 of grant funds and was one of the successful 162 recipients to receive a grant as the program was very competitive between municipalities and schools.

It is my understanding that the funds must be expended and the request for reimbursement submitted to the N.J.D.C.A. before August, 2023.

### **8. NEIGHBORHOOD PRESERVATION PROGRAM**

#### **a. Welcome Sign at Haddon and Luke Avenues**

This project has been completed.

#### **b. Sign and Landscape Improvements at Holiday Island**

The design for the sign and landscaping is being performed, at this time. The existing trees and bushes have been removed to allow for the proposed landscape plantings. The design for the sign is being finalized, at this time.

#### **c. Seasonal and Holiday Banners for Haddon Avenue and Walker Avenues**

This project has been completed.

#### **d. Decorative Poles and Over-the-Street Holiday Decorations**

We are in the process of finalizing the pole height and necessary electrical work as the work must be performed by the Township with a master meter provided by Atlantic City Electric. Mr. Conklin continues to secure the grant funds for this project.

### **9. CAMDEN COUNTY OPEN SPACE AND RECREATION ENHANCEMENT GRANT PROGRAM**

The application, along with the supporting documents, were submitted to the County, requesting the maximum grant amount of \$25,000. The application notes that the Township has, also, submitted an application to the Camden County CDBG for CDBG funding.

I met with the Open Space Advisory Committee at the site, this week, to discuss the project. They will be touring the recreation facilities for other municipal applicants, shortly. Afterwards, they will submit their recommendations to the County Commissioners and the committee expects the Commissioners to announce the selected projects in the early Fall of this year.

### **10. IMPROVEMENTS TO THE TENNIS COURTS AT ROBERT T. CLYDE PARK**

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We have received quotes from court surface specialist contractors. We are, also, several researching alternatives to the scope of the work, which has been submitted by those contractors, for the addition of pickleball court marking for multi-sport usage of the courts. I expect to be submitting the recommended proposal for the improvements to the courts, within the near future.

**11. IMPROVEMENTS TO PLAYGROUNDS**

The swing set has been installed at the Luke Avenue Recreation Complex. The Public Works staff is installing the rubber mulch safety surface and edging for the swing set and continues to make improvements and repairs to the existing playground equipment. As mentioned above, the Township has also requested County CDBG and Recreation Enhancement funds to improve and expand the Luke Avenue playground.

We are, also, obtaining prices to replace various pieces of playground equipment and for new modular playground equipment. We will be submitting the estimates to the Governing Body, shortly, for review and consideration for possible improvements.

**12. NEW JERSEY I-BANK FINANCING PROGRAM**

This program provides low-interest loans for transportation and water/sewer/stormwater infrastructure project. I-Bank is partnering with the N.J.D.O.T for transportation projects and N.J.D.E.P for the water, sewer and stormwater projects. The I-Bank loan is available to supplement any shortfall in funding, for eligible projects, from the N.J.D.O.T and N.J.D.E.P.

It is expected that The Federal Infrastructure Investment and Jobs Act funding will be administered through the I-Bank.

**13. POSSIBLE AMENDMENT TO THE INTER-MUNICIPAL SEWER AGREEMENT WITH VOORHEES TOWNSHIP**

I have no update to report, regarding this matter, at this time. I recommend that the Governing Body take the desired action to bring this matter to a final resolution.

**14. REQUEST FOR INCREASE IN SANITARY SEWER ALLOCATION**

The Township requested that the CCMUA consider endorsing the request to increase the sewer allocation to cover the flows for future development within the Township. The approval of the increase in the allocation must be granted by the N.J.D.E.P. I believe that the CCMUA has determined that there is sufficient remaining allocation to handle the immediate future development. This matter may need to be revisited after the anticipated development, in the immediate future, has been completed.

**15. POSSIBLE CONVEYANCE OF THE TOWNSHIP-OWNED LOT, ADJACENT TO THE CCMUA PUMPING STATION ON HADDON AVENUE TO THE CCMUA**

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As requested by the CCMUA, I have provided them with the known and anticipated easements for the Township property.

**16. CHERRY HILL TOWNSHIP COOPERATIVE PRICING SYSTEM**

Berlin Township is, now, a participating member of this cooperative. It is my understanding that Cherry Hill Township has, recently, included the Township as a participating member in the contract for emergency work for streets, sewer, storm drainage and utility work, using their contractor, DiMeglio Construction Co., Inc of Atco, New Jersey.

**17. ENVIRONMENTAL CLEANUP OF COMMERCIAL SITES**

**a. C&M Motors Site, 152 Haddon Avenue**

I have no update to report, regarding this matter.

**b. US Gas Service Station Site, 170 N. Route 73**

I believe that the Township Property Maintenance Officer continues to push for the cleanup of the site.

**18. MONTEBELLO AGE-RESTRICTED RESIDENTIAL DEVELOPMENT**

**a. Corrective Work and Completion of Various Improvements**

The developer had submitted a tentative schedule for the corrective work, with the work anticipated to start by the week of August 8, 2022. At this time, I am scheduled to commence the inspection of the street improvements on Tuesday, August 9, 2022. They have informed me that they want their structural engineer to be present during my inspection and are determining the engineer's availability to coordinate the scheduling of the inspection.

Residents continue to contact me to inform me of additional corrective work, which has become necessary, since the issuance of the inspection report, last year.

**b. Meeting with Representatives of the Homeowners Association**

Several months ago, I met with representatives of the Homeowners Association to discuss the findings from their consulting engineers, regarding corrective work. They have informed me that they have discussed various corrective work with the developer. I still must review their consultant's reports against the design documents and will respond to the Homeowner's representatives. I, recently, met with members of the Homeowners Association to discuss the maintenance responsibilities of the areas behind the curbs along Cooper Road and Taunton Avenue.

**c. Request for the Release of the Site Improvements Bonds for Sections 5 and 6**

On April 29, 2022, the Township consulting inspector and I met with the developer's representative to discuss the remaining corrective work, listed in the "base course" performance bonds for each section. The work remains to be completed by the developer. Therefore, at this time, I continue to

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recommend that these performance bonds not be released by the Governing Body.

**d. Responsibilities of Services Along the Streets Within the Development**

The Township Solicitor has informed the Governing Body of the responsibilities of services along the streets, within the development, which have not been accepted by Township and, therefore, not dedicated to the Township.

**e. Request by the HOA and Residents for the Maintenance of the Vegetation Along the Cooper Road Frontage**

The Property Maintenance Office and I have informed the HOA that they are, ultimately, responsible for the maintenance of the vegetation along the frontages of Cooper Road and Taunton Avenue. I believe that they may have requested a response from the Township Solicitor's Office, regarding this matter. Since the County has assisted with the maintenance of the vegetation along Cooper Road, in the past, I requested their assistance and they have, recently, completed the maintenance work.

**19. REVIEW OF TOWNSHIP ZONING AND LAND DEVELOPMENT CODES AND EXISTING AND POTENTIAL REDEVELOPMENT AREAS**

The Township Professional Planner, Planning Board Chairperson, Zoning Officer and I continue to review the zoning and land use codes, the existing redevelopment area and other areas for potential redevelopment. Our comments and recommendations for updates will be submitted to the Planning Board and Governing Body during the course of the year. The Zoning Map must, also, be revised for updates. I have recommended that zoning district lines be adjusted to follow lot lines to eliminate split zoning on lots, where possible.

**20. AMENDED PINELANDS STORMWATER MANAGEMENT REGULATIONS**

It is expected that the Pinelands Commission will be issuing a model ordinance, for use by the affected municipalities, this month. The Pinelands amended rules became effective on January 18, 2022 and the Township has one year to incorporate the new rules into the master plan and land use ordinances. I recommend that, once the model ordinance has been received by the Township, the Governing Body consider authorizing the necessary work to address this matter.

**21. STORM DRAINAGE IMPROVEMENTS**

**a. Lester Avenue Drainage and Stormwater Management Facility at the Low Point**

We have not completed the design for this project. I intend to complete the design for a reduced scope of work, based on the amount of the funds for

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this project. In response to the OPRA request, I have provided the Township with the documents, which I have, regarding this matter.

**b. Kelley Drive Basin Improvements**

I recommend that the necessary improvements be performed on this stormwater management facility, in the immediate future.

**c. Mt. Vernon Avenue at the Elementary School**

No update to report.

**d. Storm Drainage Improvements, Southwest Portion of the Township**

No update to report.

**22. STUDY FOR DESIGNATED TRUCK ROUTES THROUGHOUT THE TOWNSHIP**

This work remains to be completed and the recommendations submitted to the Governing Body for consideration for adoption.

**23. AMENDMENTS TO CHAPTER 280, SOLID WASTE**

I recommend that the Governing Body consider amending this code to be consistent with current policies and practices. I will submit my recommendations to the Governing Body for your consideration.

**24. IMPROVEMENTS AND MAINTENANCE TO THE PUBLIC WATER DISTRIBUTION SYSTEM WITHIN THE TOWNSHIP**

I continue to recommend that the Borough consider interconnecting/looping all dead end and upgrading all undersized water mains throughout the Township. The Borough has, recently, completed the interconnection of the dead-end mains along Edgewood Avenue.

**25. PUBLIC SALE OF TOWNSHIP-OWNED PROPERTIES**

It is my understanding that the Governing Body will be authorizing the public auction of several Township-owned lots. I will review the lots with the Zoning Officer and submitting our comments and recommendations to the Township Chief Financial Officer.

**26. POSSIBLE TRAFFIC SIGNAL IMPROVEMENTS**

**a. Possible Improvements to the Traffic Control Signals at the Intersections of Walker, Haddon, Bate and Veteran's Avenues**

I have requested that a meeting be scheduled with the Police Department and County Engineer's Office to discuss the concerns, submitted by the resident and possible improvements, which may be made, to address those issues.



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**b. Request for a Traffic Control Signal at the Intersection of Cooper Road and Montebello Drive/ Commerce Lane**

At my last meeting with members of the Homeowners Association, a question was raised, regarding a traffic study for a traffic signal at this intersection. I informed the members that a study was performed as part of the initial subdivision application. It was noted that there are mixed feelings, by the residents within the development, regarding the possible installation of a traffic control signal at this intersection.

**D. PUBLIC WORKS DEPARTMENT**

**1. OPERATIONS AND STAFFING**

The staff is performing various tasks throughout the Township. If determined to be necessary, the Department will attempt to hire seasonal employees for the Spring, Summer and Fall Seasons.

**2. REAR-LOAD TRASH TRUCK AND UPDATING THE VEHICLE FLEET AND EQUIPMENT**

The delivery of the completed trash truck is expected to occur in early 2023. Due to the current shortage of trucks, available for purchase, the delivery of the new pick-up truck is delayed. Mr. Simone has been working with vendors to purchase a new rear load trash truck, small dump trucks and leaf collection machine. It will be necessary to begin performing repairs and replacement of components of the automated arms on the side-load trash trucks.

**3. SHARED SERVICES FOR THE PURCHASE OF AN ASPHALT HOT PATCH DUMP TRAILER**

The Governing Bodies for the Township and the Borough of Somerdale have passed the resolutions authorizing the entering into a shared services agreement for the purchase and use of this piece of equipment. We are hopeful that the Township will award the contract for the purchase and Somerdale agrees to said purchase at the respective Council Meeting, scheduled for this month.

**4. REQUEST FOR CAPITAL IMPROVEMENTS AND PURCHASES**

I believe that the Governing Body and Chief Financial Officer have reviewed our request for the capital improvements and purchases for the high priority items. We would be glad to discuss these requests with the Governing Body and Mr. Davidson, in further detail.

**5. REPLACEMENT OF THE OFFICE AND GARAGE BUILDING ROOF AT THE PUBLIC WORKS COMPLEX**

The preconstruction meeting was held with the contractor's representative. We are reviewing the submittals and, once approved, we will issue the notice

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to proceed to the contractor. We expect the contractor to begin construction, in the near future.

**SOLICITORS REPORT**- Nothing new to report

**POLICE REPORT**-

**PROPERTY MAINTENANCE / ANIMAL CONTROL**- Nothing new to report

**INTRODUCTION ORDINANCE 2022-7 OF THE TOWNSHIP OF BERLIN, COUNTY OF CAMDEN, AND STATE OF NEW JERSEY, AMENDING, REVISING, SUPPLEMENTING AND/OR REPEALING CHAPTER 62 OF THE TOWNSHIP CODE ENTITLED "ABANDONED AND VACANT PROPERTIES".**

**WHEREAS**, the Township of Berlin ("Township") is a municipal entity organized and existing under the law of the State of New Jersey and located in Camden County; and

**WHEREAS**, abandoned and vacant properties create a wide range of problems, such as fostering criminal activity, creating public health problems and otherwise diminishing the quality of life for residents and business operators in those areas; and

**WHEREAS**, abandoned and vacant properties diminish property values of neighboring properties and have a negative effect on the quality of life of adjacent property owners, increasing the risk of property damage through arson and vandalism, and discouraging neighborhood stability and revitalization; and

**WHEREAS**, the continued presence of abandoned and vacant properties, which are presumptively considered to be nuisances in view of their negative effects on nearby properties and the residents or users of those properties, in the Township acts as a significant barrier to the Township's continued progressive development and revitalization; and

**WHEREAS**, New Jersey has recently adopted legislation concerning the institution and maintaining of Vacant and Abandoned Property ("VAP") registries; and

**WHEREAS**, the Governing Body of the Township has determined that it would be appropriate to amend the Township's current VAP registry Ordinance to reflect the new State legislation; 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

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

**SECTION 1:** Chapter 62 of the Code of the Township of Berlin is hereby repealed and replaced as follows:

**Article I – Abandoned Property**

**§ 62-1. Definitions.**

As used in this Chapter, the following terms shall have the meanings indicated:

**OPERATOR** – Any person, persons, or entity who is not the owner, who has charge, care, and control of a premises or part thereof, with or without the knowledge, consent, or authority of the owner. “Operator” shall also include a creditor as defined below.

**OWNER** – shall include the title holder, any agent of the title holder having authority to act with respect to a vacant property, and foreclosing entity subject to the provisions of P.L. 2021, c.444, or any other entity determined by the Township to have authority to act with respect to the property.

**CREDITOR** – a State chartered bank, savings bank, savings and loan association or credit union, any person required to be licensed under the provisions of the “New Jersey Residential Mortgage Lending Act,” sections 1 through 21 39 of P.L.2009, c.53 (C.17:11C-51 through C.17:11C-89), and any entity, agent, or assignee acting on behalf of the creditor named in the debt obligation including, but not limited to, servicers, who has filed a complaint in the Superior Court seeking to foreclose upon a residential or commercial mortgage. A creditor shall not include the State, a political subdivision of the State, or a State, county, or local government entity, or their agent or assignee, such as the servicer.

**VACANT AND ABANDONED PROPERTY** – any property not legally occupied by an Owner or tenant, which is in such condition that it cannot be legally reoccupied, because of the presences or finding of at least two of the following:

- a. overgrown or neglected vegetation;
- b. the accumulation of newspapers, circulars, flyers, or mail on the property;
- c. disconnected gas, electric, or water utility services to the property;
- d. the accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
- e. the accumulation of junk, litter, trash, or debris on the property;
- f. the absence of window treatments such as blinds, curtains, or shutters;
- g. the absence of furnishings and personal items;

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- h. statements of neighbors, delivery persons, or government employees indicating that the property is vacant and abandoned;
- i. windows or entrances to the property that are boarded up or closed off, or multiple window panes that are damaged, broken, and unrepaired;
- j. doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
- k. a risk to the health, safety, or welfare of the public or any adjoining or adjacent property owners due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;
- l. an uncorrected violation of a Township building, housing, or similar Code section during the preceding year, or an order by Township authorities declaring the property to be unfit for human occupancy and to remain vacant and unoccupied;
- m. a mortgagee or other authorized party has secured or winterized the property due to the property being deemed vacant and unprotected or in danger of freezing;
- n. a written statement issued by a mortgagor expressing the clear intent of all mortgagors to abandon the property; or
- o. any other reasonable indicia of abandonment.

### **§ 62-2. Establishment of Abandoned Property List.**

- A. The Code Enforcement Officer shall identify abandoned property within the Township of Berlin for the purpose of establishing an abandoned property list. The abandoned property list shall include, for each abandoned property identified, the tax block and lot number, the name of the owner of record, if known, street address of the lot and the date added to the list. The Code Enforcement Officer may add properties to the abandoned property list at any time, and may delete properties at any time when he or she finds that the property no longer meets the definition of an abandoned property.
- B. An abandoned property shall not be included on the abandoned property list if rehabilitation is being performed in a timely manner, as evidenced by building permits issued and diligent pursuit of rehabilitation work authorized by those permits. A property on which an entity other than the Township of Berlin has purchased or taken assignment from the Township of a tax sale certificate which has been placed on the abandoned property list may be removed if the owner of the certificate pays all municipal taxes and liens due on the property within 30 days after the property is placed on the list; provided, however, that if the owner of the certificate fails to initiate foreclosure proceedings within six months after the property was first placed on the List, the property shall be restored to the abandoned property list in accordance with the provisions of N.J.S.A. 55:19-103.

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- C. The Code Enforcement Officer shall establish the abandoned property list, after which a notice of violation will be sent, certified mail, return receipt requested, and by regular mail, to the owner of record and any stakeholder. The notice of violation shall identify the property determined to be abandoned, setting forth the owner of record and any stakeholder, if known, the tax lot and block number, street address and the date the property was added to the list. The Code Enforcement Officer in consultation with the Tax Collector, shall also send out a notice by regular mail to any mortgagee, servicing organization, or property tax processing organization that receives a duplicate copy of the tax bill pursuant to N.J.S.A. 54:4-64(d). When the owner of record is not known for a particular property and cannot be ascertained by the exercise of reasonable diligence by the Tax Collector, notice shall not be mailed but instead shall be posted on the property in the manner as provided in N.J.S.A. 40:48-2.7. The mailed notice shall indicate the factual basis for the finding of the Code Enforcement Officer that the property is abandoned as that term is defined herein and in N.J.S.A. 55:19-54, and shall specify the information relied upon in making such finding. The notice shall be captioned with the name of the Township of Berlin as "plaintiff" and the name of the property owner as "defendant," as though an action had been commenced by the Township against the owner.
- D. An owner or lienholder may challenge the inclusion of his property on the abandoned property list by appealing that determination to the Township Administrator within thirty (30) days of the owner's receipt of the certified notice or forty (40) days from the date upon which the notice was sent. An owner whose identity was not known to the Township Administrator shall have forty (40) days from the date upon which notice was posted to challenge the inclusion of a property on the abandoned property list. For good cause shown, the Township Administrator may accept a late filing of an appeal. Within thirty (30) days of receipt of a request for an appeal of the findings contained in the notice, a hearing shall be scheduled for redetermination of the matter. Any property included on the list shall be presumed to be abandoned property unless the owner, through the submission of an affidavit or certification asserting that the property is not an abandoned property, can demonstrate that the property was erroneously included on the list. The affidavit or certification shall be accompanied by supporting documentation, such as, but not limited to, photographs, repair invoices, bills and construction contracts. The sole ground for appeal shall be that the property in question is not abandoned property as that term is defined herein and in N.J.S.A. 55:19-54. The Township Administrator shall decide any timely filed appeal within 10 days of the hearing on the appeal and shall promptly, by certified mail, return receipt requested, and by regular mail, notify the property owner of the decision and the reasons therefor.
- E. The property owner may challenge an adverse determination of an appeal, in accordance with the New Jersey Court Rules, a summary trial proceeding in the Superior Court, Camden County. Such action shall be instituted within twenty (20) days of the date of the notice of decision. The sole ground for appeal and new hearing before the Superior Court shall be that the property in question is not an

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abandoned property as that term is defined in N.J.S.A. 55:19-54. The failure to institute an action of appeal on a timely basis shall constitute a jurisdictional bar to challenging the adverse determination, except that, for good cause shown, the court may extend the deadline for instituting the action.

- F. The Township shall promptly remove any property from the abandoned property list that has been determined by the Township Administrator or on appeal not to be abandoned and may, in its discretion, remove properties from said list whenever he deems such removal appropriate under the circumstances.
- G. The abandoned property list shall become effective, and the Township of Berlin shall have the right to pursue any legal remedy with respect to properties on the list, at any time after at least one property has been placed on the list and following the expiration of the period for appeal with respect to that first property or upon the denial of an appeal brought by the property owner of that first property.

### **§ 62-3. Interest parties may request additions to the abandoned property list.**

- A. Any interested party may submit a written request to the Township asserting that any property within the Township of Berlin should be included on the abandoned property list. The written request must specify the street address and block and lot number of the property to be included and the grounds for its inclusion. Within thirty (30) days of receipt of any such request, the Township shall provide a written response to the party, either indicating that the property will be added to the list or, if not, the reasons for not adding the property. For the purposes of this section, the term "interested parties" shall include any resident of the Township of Berlin, any owner or operator of a business within the Township of Berlin or any organization representing the interests of residents, business owners or otherwise engaged in furthering the revitalization and improvement of the neighborhood in which the property is located.
- B. Any interested party may participate in a redetermination hearing regarding the inclusion of a property on the abandoned property list. Upon written request by any interested party, the Township Administrator shall provide that party with at least twenty (20) days' notice of any such hearing. The party shall provide the Township with notice at least ten (10) days before the hearing of its intention to participate and the nature of the testimony or other information that it proposes to submit at the hearing.

### **§ 62-4. Removal of property from abandoned properties list.**

- A. An owner may request removal of their property from the Abandoned Properties List prior to sale of the tax sale certificate by paying all taxes and Township liens due, including interest and penalties, and:
  - 1. By posting cash or a bond equal to the cost of remediating all conditions because of which the property has been determined to be abandoned

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pursuant to N.J.S.A. 55:19-55 and by posting cash or a bond to cover the cost of any environmental cleanup required on the property, evidenced by a certification by a licensed engineer retained by the owner and reviewed and approved by the Township stating that the cash or bond adequately covers the cost of the cleanup; or

2. By demonstrating to the satisfaction of the Township that the conditions rendering the property abandoned have been remediated in full; provided, however, that where the Administrator finds that the owner is actively engaged in remediating the conditions because of which the property was determined to be abandoned, as evidenced by significant rehabilitation activity on the property, may be granted an extension of time of not more than 120 days for the owner to complete all work, during which time no further proceedings will be taken against the owner or the property.
- B. If the owner has posted cash or a bond in order to have a property removed from the abandoned property list and the conditions because of which the property was determined to be abandoned have not been fully remediated within one year of the date of posting the cash or bond, or, in the case of a property which requires a remediation of any known, suspected or threatened release of contaminants, if the owner has failed to enter into a memorandum of agreement with the New Jersey Department of Environmental Protection or an administrative consent order, as the case may be, or if an agreement or order is in effect but the owner has failed to perform the remediation in conformance with the agreement or order, then the cash or bond shall be forfeited to the Township, which shall use the cash or bond and any interest which has accrued thereon for the purpose of demolishing or rehabilitating the property or performing the environmental remediation. Any funds remaining after the property has been demolished, rehabilitated or cleaned up shall be returned to the owner.

### **§ 62-5. Sale of restricted tax liens.**

- A. Notwithstanding the provisions of N.J.S.A. 54:5-19, or the provisions of any other law to the contrary, if a property is included on the abandoned property list and the property taxes or other Township liens due on the property are delinquent for six or more quarters as of the date of expiration of the right to appeal the property's inclusion on the list or, if an appeal has been filed, as of the date that all opportunities for appeal of inclusion on the list have been exhausted, then the tax lien on the property may be sold in accordance with the procedures of the Tax Sale Law, N.J.S.A. 54:5-1 et seq., on or after the 90th day following the expiration of that time of appeal or final determination on an appeal.
- B. The Township of Berlin may, at its option, require that the sale of the tax sale certificate or any subsequent assignment or transfer of a tax sale certificate held by the Township be subject to the express condition that the purchaser or assignee shall be obliged to perform and conclude any rehabilitation or repairs necessary to remove the property from the abandoned property list pursuant to N.J.S.A. 55:19-

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55 and to post a bond in favor of the Township to guarantee the rehabilitation or repair of the property. The Mayor and Township Council may waive a requirement to post a bond imposed by the Township for any purchaser, assignee or transferee of a tax sale certificate that provides documentation acceptable to the Mayor and Township Council that the purchaser, assignee or transferee is a qualified rehabilitation entity as defined in N.J.S.A. 55:19-80. The cost of rehabilitation and repairs and the cost of the bond shall be added to the amount required to be paid by the owner for redemption of the property. The purchaser, assignee or transferee of the tax sale certificate who is required to rehabilitate and repair the property shall be required to file the appropriate affidavits with the Tax Collector, pursuant to N.J.S.A. 54:5-62, representing the amounts of monies expended periodically toward the rehabilitation or repair of the property. A purchaser, assignee or transferee shall be entitled to interest on the amounts expended, as set forth in the affidavits, at the delinquent rate of interest for delinquencies in excess of \$1,500 in effect for the time period when the amounts were expended, pursuant to N.J.S.A. 54:4-67. The tax sale certificate purchaser, assignee or transferee, with the authority of the Township of Berlin, shall be permitted to enter in and upon the property for the purposes of appraising the costs of rehabilitation and repair and to perform all other acts required to guarantee the completion of the rehabilitation or repair of the property. No rehabilitation or repair work shall be commenced, however, until proof of adequate liability insurance and an indemnification agreement, holding the Township of Berlin harmless, has been filed with the Township Clerk.

- C. If the Township of Berlin acquires the tax sale certificate for a property on the abandoned property list, then, upon ten (10) days' written notice to the property owner and any mortgagee as of the date of the filing of the notice pursuant to N.J.S.A. 55:19-55, the Township shall be permitted to enter upon the property and remediate any conditions that caused the property to be included on the abandoned property list. No remediation shall be commenced, however, if within that ten-day period the owner or mortgagee shall have notified the Township in writing that the owner or mortgagee has elected to perform the remediation itself. When the owner or mortgagee elects to perform the remediation itself, it shall be required to post bond in favor of the Township of Berlin in order to ensure performance. The amount and conditions of the bond shall be determined by the Mayor and Township Council.
- D. The cost of remediation incurred by the Township of Berlin, as so certified by the entity incurring the cost upon completion of the remediation, shall constitute a lien upon the property first in time and right to any other lien, whether the other lien was filed prior to or after the filing of any lien by the Township, except for Township taxes, liens and assessments and any lien imposed pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., together with any interest thereon. The certification of cost shall be filed and recorded as a lien by the entity incurring the cost with the Camden County Clerk.



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- E. The clearance, development, redevelopment, or repair of property being maintained as an abandoned property pursuant to this chapter shall be considered a public purpose and public use, for which the power of eminent domain may be lawfully exercised.

### **§ 62-6. Special tax sale and criteria for bidders.**

- A. The Township of Berlin may hold special tax sales with respect to those properties eligible for tax sale pursuant to N.J.S.A. 54:5-19 which are also on the abandoned property list.
- B. The Governing Body shall establish criteria for eligibility to bid on properties at the sale, which may include, but need not be limited to:
  - 1. Documentation of the bidder's ability to rehabilitate or otherwise reuse the property consistent with Township plans and regulations; commitments by the bidder to rehabilitate or otherwise reuse the property, consistent with Township plans and regulations;
  - 2. Commitments by the bidder to take action to foreclose on the tax lien by a date certain; and
  - 3. Such other criteria, as may be determine, if necessary to ensure that the properties to be sold will be rehabilitated or otherwise reused in a manner consistent with the public interest.
- C. Establish minimum bid requirements for a special tax sale that are less than the full amount of the taxes, interest and penalties due, to help ensure that the properties will be rehabilitated or otherwise utilized in a manner consistent with the public interest.
- D. The ability to combine properties in said special tax sale into bid packages, and require that bidders place a single bid on each package, rejecting any and all bids on individual properties that are submitted.
- E. The Township may sell properties subject to the provision that if the purchaser fails to carry out any commitment that has been set forth as a condition of sale, or misrepresents any material qualification that has been established as a condition of eligibility to bid pursuant thereto, then the properties and any interest thereto acquired by the purchaser shall revert to the Township, and any amount paid by the purchaser at the special tax sale shall be forfeit to the Township.
- F. In the event there are two (2) or more qualified bidders for any property or bid package in a special tax sale, the Township may designate the unsuccessful qualified bidder whose bid was closest to the successful bid, as an eligible purchaser. In the event that the selected purchaser of that property or bid package fails to meet any of the conditions of sale established by the Township pursuant to

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this section and their interest in the property or properties reverts to the Township, the Township may subsequently designate the entity previously designated as an eligible purchaser as the winning bidder for the property or properties, and assign the tax sale certificates to that entity on the basis of that entity's bid at the special tax sale, subject to the terms and conditions of the special tax sale.

- G. The Township of Berlin shall provide notice of a special tax sale pursuant to N.J.S.A. 54:5-26. The notice shall include any special terms of sale established by the Township pursuant to this section. Nothing shall prohibit the Township from holding a special tax sale on the same day as a standard or accelerated tax sale.

### **§ 62-7. Expedited action to foreclose right of redemption.**

- A. When a person or entity other than the Township of Berlin acquires a tax sale certificate for a property on the abandoned property list at tax sale, the purchaser may institute an action to foreclose the right of redemption at any time after the expiration of just six months following the date of the sale of the tax sale certificate.
- B. When the Township of Berlin is the purchaser at tax sale of any property on the abandoned property list pursuant to N.J.S.A. 54:5-34, an action to foreclose the right of redemption may be instituted in accordance with the provisions of subsection b of N.J.S.A. 54:5-77.
- C. After the foreclosure action is instituted, the right to redeem shall exist and continue to exist until barred by the judgment of the Superior Court; provided, however, that no redemption shall be permitted except where the owner:
1. Posts cash or a bond equal to the cost of remediating the conditions because of which the property was determined to be abandoned pursuant to N.J.S.A. 55:19-56, as determined by the Court; or
  2. Demonstrates to the Court that the conditions because of which the property was determined to be abandoned have been remedied in full.

### **§ 62-8. Abandoned property status during expedited foreclosure.**

- A. If an entity other than the Township of Berlin has purchased or taken assignment from the Township of a tax sale certificate on a property that has not been legally occupied for a period of six months, that property shall not be added to the abandoned property list under the following limited circumstances:
1. The owner of the certificate continued to pay all Township taxes and liens on the property in the tax year when due; and
  2. The owner of the certificate takes action to initiate foreclosure proceedings within six months after the property is eligible for foreclosure pursuant to

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either subsection a or subsection b of N.J.S.A. 54:5-86, as appropriate, and diligently pursues foreclosure proceedings in a timely fashion thereafter.

- B. A property used on a seasonal basis shall be deemed abandoned only if it meets any two of the additional criteria set forth in N.J.S.A. 55:19-81.
- C. A determination that a property is abandoned property under the provisions of this chapter and N.J.S.A. 55:19-78 et seq., shall not constitute a finding that the use of the property has been abandoned for purposes of municipal zoning or land use regulation.
- D. Upon the request of a purchaser or assignee of a tax sale certificate seeking to bar the right of redemption on an abandoned property pursuant to subsection b of N.J.S.A. 54:5-86, the Tax Collector shall, in a timely fashion, provide the requester with a certification that the property fulfills the definition of an "abandoned property" according to the criteria established in N.J.S.A. 55:19-81 and N.J.S.A. 55:19-82.

### **§ 62-9. Summary action for control and possession of abandoned property.**

- A. A summary action or other action to transfer possession and control of abandoned property in need of rehabilitation to the Township of Berlin may be brought by the Township in the Superior Court, Camden County. If the Court shall find that the property is abandoned, and that the owner or party in interest has failed to submit and initiate a rehabilitation plan, then the Court may authorize the Township to take possession and control of the property and to develop its own rehabilitation plan for the property.
- B. Where the Township has been granted possession and control, the Township may commence and maintain further proceedings for the conservation, protection or disposal of the property, or any part thereof, that are required to rehabilitate the property, recoup the cost and expenses of rehabilitation, and for the sale of the property; provided, however, that the Court shall not direct the sale of the property if the owner applies to the Court for reinstatement of control and possession of the property as permitted by N.J.S.A. 55:19-92.
- C. Failure by the owner, mortgage holder or lienholder to submit a plan for rehabilitation to the Township, obtain appropriate construction permits or, in the alternative, submit formal applications for funding the cost of rehabilitation to local, state or federal agencies providing such funding, within the initial six-month period, shall be deemed clear evidence that the owner has failed to take any action to further the rehabilitation of the property.
- D. An owner may defend against a complaint filed pursuant to N.J.S.A. 55:19-84 by submitting a plan for the rehabilitation and reuse of the property which is the subject of the complaint and by posting a bond equal to one hundred twenty-five percent (125%) of the amount determined by the Township to be the projected cost of rehabilitation.

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- E. Any plan submitted by an owner to defend against a complaint shall be submitted within sixty (60) days after the complaint has been filed, unless the Court provides the owner with an extension of time for good cause shown. A plan submitted by an owner pursuant to this section shall include, but not be limited to:
1. A detailed financial feasibility analysis, including documentation of the economic feasibility of the proposed reuse, including operating budgets or resale prices, or both, as appropriate;
  2. A budget for the rehabilitation of the property, including sources and uses of funds, based on the terms and conditions of realistically available financing, including grants and loans;
  3. A timetable for the completion of rehabilitation and reuse of the property, including milestones for performance of major steps leading to and encompassing the rehabilitation and reuse of the property; and
  4. Documentation of the qualifications of the individuals and firms that will be engaged to carry out the planning, design, financial packaging, construction, and marketing or rental of the property.
- F. Where the Court approves the rehabilitation plan of the owner or other party in interest, then it may appoint the Township Administrator to act as monitor of compliance and progress. If the owner fails to carry out any step in the approved plan, then the Township may apply to the Court to have the posted bond forfeited, to transfer possession of the building to the Township to complete the rehabilitation plan, and to grant authorization to use the bond proceeds for the rehabilitation. The owner or other party in interest shall provide bimonthly reports to the Township on its activities and progress toward rehabilitation and reuse of the property.
- G. If an owner is unsuccessful in defending against a complaint filed pursuant to N.J.S.A. 55:19-84, the mortgage holder or lienholder may seek to be designated in possession of the property by submitting a plan and posting a bond meeting the same conditions as set forth in N.J.S.A. 55:19-87. Their plan must be submitted within sixty (60) days following the Court's rejection of the owner's plan, unless the Court provides the mortgage holder or lienholder with an extension of time for good cause shown. If the Court approves any such mortgage holder or lienholder's plan, it shall designate that party to be in possession of the property for purposes of ensuring its rehabilitation.
- H. The mortgage holder or lienholder, as the case may be, shall provide bimonthly reports to the Court and the Township on its activities and progress toward rehabilitation and reuse of the property. If the mortgage holder or lienholder fails to carry out any material step in the approved plan, then the Township Solicitor shall notify the Court, which may order the posted bond forfeit, grant the Township possession of the property, and authorize the Township to use the proceeds of the bond for rehabilitation of the property.

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- I. Any sums incurred or advanced for the purpose of rehabilitating the property by a mortgage holder or lienholder granted possession of a property, including Court costs and reasonable attorney's fees, may be added to the unpaid balance due to that mortgage holder or lienholder, with interest calculated at the same rate set forth in the note or security agreement, or, in the case of a tax lienholder, at the statutory interest rate for subsequent liens.
- J. If no mortgage holder or lienholder meets the conditions of N.J.S.A. 55:19-88, then the Township may submit a plan to the Court which conforms with the provisions of N.J.S.A. 55:19-87. Such plan shall designate whether the Township or a qualified rehabilitation entity shall undertake the rehabilitation plan in accordance with the provisions of N.J.S.A. 55:19- 90.

**§ 62-10. Township rehabilitation or designation of qualified rehabilitation entity.**

- A. The Township Administrator may designate a qualified rehabilitation entity for the purpose of exercising the Township's rights, where that designation will further the rehabilitation and reuse of the property consistent with Township plans and objectives.
- B. Regardless of whether the Township exercises its rights directly or the Mayor and Township Council designates a qualified rehabilitation entity pursuant to this section, the Township shall maintain, safeguard, and maintain insurance on the property while in possession of such property. Notwithstanding the Township's possession of the property, the owner of the property shall not be relieved of any civil or criminal liability or any duty imposed by reason of acts or omissions of the owner.
- C. The Court may approve the borrowing of funds by the Township to rehabilitate the property and may grant a lien or security interests with priority over all other liens or mortgages other than municipal liens. Prior to granting this lien priority, the Court must find as follows:
  - 1. The Township sought to obtain the necessary financing from the senior lienholder, which declined to provide such financing on reasonable terms;
  - 2. The Township sought to obtain a voluntary subordination from the senior lienholder, which refused to provide such subordination; and
  - 3. Lien priority is necessary in order to induce another lender to provide financing on reasonable terms. No lien authorized by the Court shall take effect unless recorded with the Clerk of Camden County.
- D. Where the Township has designated a qualified rehabilitation entity to act on its behalf, the qualified rehabilitation entity shall provide bimonthly reports to the Township on its activities and progress toward rehabilitation and reuse of the property. The Township or qualified rehabilitation entity, as the case may be, shall

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provide such reports to the Court as the Court determines to be necessary. If the Court finds that the Township or its designee have failed to take diligent action toward rehabilitation of the property within one year from the grant of possession, then the Court may request that the Township designate another qualified rehabilitation entity to exercise its rights, or if the Township fails to do so, may terminate the order of possession and return possession and control of the property to its owner.

- E. The Township of Berlin shall file a notice of completion with the Court, and shall also serve a copy on the owner and any mortgage holder or lienholder, at such time as the Township has determined that no more than six months remain to the anticipated date on which rehabilitation will be complete. This notice shall include an affidavit of the Township Administrator, or such other person designated by the Governing Body, attesting that the rehabilitation is anticipated to be completed within six months, and a statement setting forth the actions as it plans to undertake consistent with the plan.

### **§ 62-11. Petition for reinstatement of control and possession by owner.**

- A. An owner may petition for reinstatement of the owner's control and possession of the property at any time after one year from the Court's removal of possession, but no later than thirty (30) days after the Township of Berlin has filed a notice of completion with the Court or, in the event the notice of completion is filed within less than one year of the grant of possession, within thirty (30) days after the Township has filed said notice.
- B. The Court may allow additional time for good cause if that additional time does not materially delay completion of the rehabilitation, place undue hardship on the Township or affect any of the terms or conditions under which the Township has applied for or received financing for the rehabilitation of the property.
- C. If the owner fails to petition for the reinstatement of control and possession of the property within thirty (30) days after the Township has filed a notice of completion or, in any event, within two years after the initial grant of possession, or if the owner fails to meet any conditions that may be set by the Court in granting a reinstatement petition, the Court may grant the Township title or authorize the Township to sell the property, subject to the provisions of N.J.S.A. 55:19-96.

### **§ 62-12. Procedure for Township to place liens, obtain title and sell property.**

- A. The Mayor and Township Council, with the approval of the Court, may place a lien on the property to cover any costs of the Township in connection with any proceeding under N.J.S.A. 55:19-78 et seq., incurred prior to the grant by the Court of an order of possession, which may include costs incurred to stabilize or secure the property to ensure that it can be rehabilitated in a cost-effective manner. Any such lien shall be considered a Township lien for the purposes of N.J.S.A. 54:5-9, with the rights and status of a Township lien pursuant thereto.

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- B. Where the Township seeks to gain title to the property, it shall purchase the property for fair market value on such terms as the Court shall approve and may place the proceeds of sale in escrow with the Court.
- C. The Court may authorize the Township of Berlin to sell the building free and clear of liens, claims and encumbrances, in which event all such liens, claims and encumbrances shall be transferred to the proceeds of sale with the same priority as existed prior to resale in accordance with the provisions of this section, except that municipal liens shall be paid at settlement. The proceeds of the purchase of the property shall be distributed as set forth in N.J.S.A. 55:19-97.
- D. Upon approval by the Court, the Township shall sell the property on such terms and at such price as the Court shall approve and may place the proceeds of sale in escrow with the Court. The Court shall order a distribution of the proceeds of sale after paying Court costs in the order of priority set forth in N.J.S.A. 55:19-97.
- E. With the exception of the holding of special tax sales pursuant to N.J.S.A. 55:19-101, the remedies available under N.J.S.A. 55:19-78, et seq. shall be available to the Township with respect to any abandoned property, whether or not the Township has established an abandoned property list and whether or not the property at issue has been included on any such list.

**Article II – Maintenance and Registration of Vacant Properties**

**§ 62-13. Registration requirements of vacant and abandoned properties not in foreclosure.**

The owner and/or operator of any vacant property that is not the subject of an ongoing foreclosure action, as defined herein, shall, within thirty (30) calendar days after the building becomes vacant or abandoned property or within thirty (30) calendar days after assuming ownership of the vacant property, whichever is later, or within ten (10) calendar days of receipt of notice by the municipality, file a registration statement for such vacant property with the Township Clerk on forms provided by the Township for such purposes. Failure to receive notice by the Township shall not constitute grounds for failure to register the property.

- A. Each property having a separate block and lot number as designated in official records of the municipality shall be registered separately.
- B. The registration statement shall include the name, street address, telephone number and e-mail address (if applicable) of a person twenty-one (21) years or older, designated by the owner and/or operator or owner and/or operators as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such owners and/or operators in connection with the enforcement of any applicable code, and the name, street address, telephone number and e-mail address (if

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applicable) of the firm and the actual name(s) of the firm's individual principal(s) responsible for maintaining the property. The individual or representative of the firm responsible for maintaining the property shall be available by telephone or in person on a twenty-four-hour-per-day, seven-day-per-week basis. The two (2) entities may be the same or different persons. Both entities shown on the statement must maintain offices in the State of New Jersey or reside within the State of New Jersey.

- C. The registration shall remain valid for one year from the date of registration, except for the initial registration time, which shall be prorated through December 31. The owner and/or operator shall be required to renew the registration annually as long as the building remains a vacant property.
- D. The annual renewal shall be completed by January 1 each year.
- E. The owner and/or operator shall notify the Township Clerk within thirty (30) calendar days of any change in the registration information by filing an amended registration statement on a form provided by the Township Clerk for such purpose.
- F. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the Township against the owners and/or operators of the building.

### **§62-14. Access to Vacant Properties.**

The owner of any vacant property registered under this Article shall provide access to the Township and its officials to conduct exterior and interior inspections of the building to determine compliance with municipal codes, upon reasonable notice to the property owner and/or operator or the designated agent. Such inspections shall be carried out on weekdays during the hours of 8:00 a.m. and 4:00 p.m., or such other time as may be mutually agreed upon between the owner and/or operator and the Township.

### **§62-15. Responsible Owner or Agent.**

- A. An owner who meets the requirements of this article with respect to the location of his or her residence or workplace in the State of New Jersey may designate him or herself as agent or as the individual responsible for maintaining the property.
- B. By designating an authorized agent under the provisions of this section, the owner consents to receive any and all notices of code violations concerning the registered vacant property and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered building by service of the notice or process on the



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authorized agent. Any owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purposes of this section until the owner notifies the Township in writing of a change of authorized agent or until the owner files a new annual registration statement.

- C. Any owner who fails to register vacant property under the provisions of this Article shall further be deemed to consent to receive by posting on the building, in plain view, and by service of notice at the last known address of the owner of the property on record within the Township of Berlin by regular and certified mail, any and all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the building.

### **§62-16. Requirements of owners and/or operators of vacant properties.**

The owner and/or operator of any building that has become vacant property, and any person maintaining or operating or collecting rent for any such building that has become vacant, shall, within thirty (30) days thereof:

- A. Enclose and secure the building against unauthorized entry as provided in the applicable provisions of the Township Code or as set forth in the rules and regulations supplementing those codes; and
- B. Post a sign affixed to the building indicating the name, address and telephone number of the owner and/or operator, the owner and/or operator's authorized agent for the purpose of service of process (if designated pursuant to § 62-16 above), and the person responsible for the day-to-day supervision and management of the building, if such person is different from the owner and/or operator holding title or authorized agent. The sign shall be of a size and placed in such a location so as to be legible from the nearest public street or sidewalk, whichever is nearer, but shall be no smaller than eight (8) inches by ten (10) inches.
- C. Secure the building from unauthorized entry and maintain the sign until the building is again legally occupied or demolished or until repair or rehabilitation of the building is complete; and
- D. Ensure that the exterior grounds of the structure, including yards, fences, sidewalks, walkways, rights-of-way, alleys, retaining walls, attached or unattached accessory structures and driveways, are well maintained and free from trash, debris, loose litter and grass and weed growth; and
- E. Continue to maintain the structure in a secure and closed condition, keep the grounds in a clean and well-maintained condition (including, but not limited to, maintaining grass areas and removing any temporary stone

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surfaces), and ensure that the sign is visible and intact until the building is again occupied or is demolished or until repaid and/or rehabilitation of the building is complete; and

- F. If the owner of a residential property vacates or abandons any property on which a foreclosure proceeding has been initiated, or if a residential property becomes vacant at any point subsequent to the operator's filing the summons and complaint in an action to foreclose on a mortgage against the subject property, but prior to vesting of title in the operator or any other third party, and the property is found to be a nuisance and/or in violation of any of the provisions of this article, the Code Enforcement Officer shall notify the operator, which shall have the responsibility to abate the nuisance and/or correct the violation in the same manner and to the same extent as the title owner of the property, to such standard or specification as may be required by state law or this article. The Township shall include a description of the conditions that gave rise to the violation with the notice of violation, and shall provide a period of not less than 30 days from the operator's receipt of the notice for the operator to remedy the violation. If the operator fails to remedy the violation within that time period, the Township may impose penalties allowed for such violations pursuant to Section 62-20 of this Article.

### **§62-17. Establishment and administration of registry for properties in foreclosure.**

- A. The Township shall create and maintain a registry of all commercial and/or residential properties within the Township for which a summons and complaint in an action to foreclose has been filed with the New Jersey Superior Court, pursuant to its authority granted by P.L. 2021, c.444. This registry will be formed and maintained to assist the Township with regulating the maintenance, security, and upkeep of properties which may become vacant and abandoned during the foreclosure process, in order to prevent the deleterious effects of blight associated with vacant and abandoned properties that are not maintained.
- B. The Township may, at its discretion, create, maintain, and administer this registry independently, retain the professional services of a third party pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*, or participate in a Shared Services Agreement with other local units, Counties, and/or County Improvement Authorities for the creation, maintenance, and administration of the registry pursuant to the Uniform shared Services and Consolidation Act, N.J.S.A. 40A:65-1 *et seq.*
- C. Any third parties retained to create, maintain, and/or administer the registry shall have the authority, on behalf of the Township, to:
- 1) Identify properties subject to the registration requirement.
  - 2) Maintain and update the registration list.
  - 3) Communicate with creditors and/or in-state representatives.

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- 4) Invoice and collect payment of fees.
  - 5) Monitor compliance.
  - 6) Such other functions, within the scope of P.L. 2021, c.444, which may be deemed necessary to carry out its function on behalf of the Township.
- D. Any third parties retained to create, maintain, and/or administer the registry shall be required to comply with the following reporting and payment requirements:
- 1) Any and all amounts collected by the third party as part of its administration of the Township's registry, including registration fees, interest, and penalties, shall be paid, in full, directly to the Township, or Camden County, as applicable, not less than once per year, or as otherwise directed by the Township's Zoning Officer or designee. No fees, payments, expenses, or other deductions shall be made from this payment; payment for any third party's services under this Article shall be made by the Township, or as applicable, the County/County Improvement Authority, directly to the third party, under the terms and conditions outlined within the contract for professional services.
  - 2) Not less than once per year on the first business day of each calendar year, or as otherwise may be requested by the Tax Collector, any third party administering the Township's registry shall file with Tax Collector a certification identifying:
    - i. The address, block, lot, and contact information of any property for which registration fees under this Article are due and owing at the time of the certification;
    - ii. The amount of the registration fees, and separately, an interest, fines, and other penalties due and owing at the time of the certification; and
    - iii. The date on which the property became eligible for inclusion on the Township's registry.

**§62-18. Registration, notice, and other creditor requirements.**

- A. Within thirty (30) days of the effective date of this Ordinance, any creditor who has initiated a summons and complaint with the New Jersey Superior Court in an action to foreclose on a commercial and/or residential mortgage for a property located within the Township: (i) prior to the effective date of this Ordinance, and (ii) which is pending as of the effective date of this Ordinance, shall provide notice in accordance with sub-section (b) of this Section.
- B. Within ten (10) days of filing a summons and complaint with the New Jersey Superior Court in an action to foreclose on a commercial and/or residential mortgage for a property located within the Township, the creditor shall notify the Township Clerk, or his/her designee, of the action. Such notice shall include.

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1. The address, block and lot of the subject property;
2. The date the summons and complaint in an action to foreclose on a mortgage was filed against the subject property, the court in which it was filed, and the docket number of the filing;
3. Whether the property is vacant and abandoned in accordance with the definition in this Chapter;
4. The full name, address, and telephone number for the representative of the creditor who is responsible for receiving notice of complaints of property maintenance code violations;
5. The full name, address, and telephone number of any persons or entity retained by the creditor or a representative of the creditor to be responsible for any care, maintenance, security, or upkeep of the property; and
6. If the creditor is out-of-State, the full name, address, and telephone number of an in-State representative or agent who shall be responsible for any care, maintenance, security, or upkeep of the property, and for receiving notice complaints of property maintenance and code violations.
7. The notice requirements herein represent a continuing obligation throughout the pendency of the foreclosure action. After initial notice to the Township, creditors subject to the notice requirement shall update the Township's property registration program within ten (10) days of any change in the information contained in the original or any subsequent notices.

C. Creditors of any commercial and/or residential mortgage required to notify the Township pursuant to this Section shall:

1. Register the property with the Township's property registration program as a property in foreclosure within thirty (30) days of notifying the Township.
2. Be subject to the registration fee, notice requirements, and penalties for non-compliance established within this Chapter.
3. Update the property registration within ten (10) days of any change in the information contained in the original notice to the Township;
4. If an out-of-State creditor, appoint an in-State representative or agent to act for the foreclosing creditor, whose contact information shall be contained within the initial notice to the Township;
5. Within ten (10) days of the property becoming vacant and abandoned at any time during the pendency of the foreclosure action, the creditor shall:
  - a. Assume responsibility for the care, maintenance, upkeep, and security of the exterior of the property;

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- b. Secure the property against unauthorized entry;
  - c. Post a sign on the inside of the property, visible to the public, containing the name, address, and telephone number of the creditor, or an out-of-State creditor's in-State representative or agent, for the purpose of receiving service of process;
  - d. Acquire and maintain a vacancy insurance policy which covers any damage to any person or property caused by any physical condition of the property while registered with the Township's property registration program;
  - e. Provide proof, within ten (10) days of receiving a request by the Township or its designee, that the above conditions have been satisfied;
  - f. Cure any violations of the above requirements within thirty (30) days of receiving a notice of violation, or if deemed to present an imminent threat to public health and safety, within ten (10) days of receiving such notice.
6. Update the property registration within ten (10) days of the creditor becoming aware that the property is deemed vacant and abandoned as defined herein
- D. If at any time the creditor is deemed to be in violation of the above requirements, and/or if the property is deemed to be in violation of any other applicable local or state maintenance, health, or safety codes, the Code Official or his/her designee shall notify the creditor using the contact information provided in the property registry established by this Chapter.

### **§62-19. Fees, violations and penalties.**

#### Fees:

- a. All fees, penalties, and/or fines established within this Chapter and assessable pursuant to the Township's authority outlined within P.L. 2021, c.444 shall be deemed a municipal charge in accordance with N.J.S.A. 54:5-1, *et seq.*
- b. Creditors required to notify the Township and register a property as one in foreclosure shall be required to pay an annual registration fee of five hundred dollars (\$500.00) per property, due at the time of registration.
- c. If a property registered with the Township's registration program pursuant to §62-17 and §62-18 as a property in foreclosure is determined to be vacant and abandoned at the time of registration, or becomes vacant and abandoned at any time during the pendency of the foreclosure proceeding, the creditor shall pay an additional annual registration fee of two thousand dollars (\$2,000) per property, due at the time the determination that the property is vacant and abandoned is made.

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### Violations and Penalties:

- a. An out-of-state creditor subject to the notice and registration requirements of this Chapter, found to be in violation of the requirement to appoint an in-State representative or agent, shall be subject to a fine of two thousand five hundred dollars (\$2,500.00) for each day of the violation. The violation shall be deemed to commence on the day after the creditor's initial ten (10) or thirty (30) day requirement to notify the Township of applicable foreclosure actions.
- b. A creditor subject to the notice and registration requirements of this Chapter found to be in violation of any other Section of this Chapter shall be subject to a fine of one thousand five hundred dollars (\$1,500.00) for each day of the violation. The violation shall be deemed to commence on the 31st day following the creditor's receipt of a notice of violation, or if deemed to present an imminent threat to public health and safety, on the 11th day following the creditor's receipt of such notice.
- c. If the Township expends public funds in order to abate a nuisance or correct a violation on a commercial property in situations in which the creditor was given notice pursuant to this Chapter, but failed to abate the nuisance or correct the violation as directed, the Township shall have the same recourse against the creditor as it would have against the Owner of the property, including but not limited to the recourse provided under N.J.S.A. 55:19-100, *et seq.*
- d. For all other provisions of this Article, any owner, operator or occupant who or which shall violate any of the provisions of this article shall, upon conviction in the Berlin Township Municipal Court or any such other court having jurisdiction, be sentenced to a not exceeding one thousand dollars (\$1,000.00) or imprisonment for a term not exceeding thirty (30) days, or both. Each day that a violation occurs shall be deemed a separate offense and subject to the penalty provisions of this Chapter.
- e. For purposes of this Article, failure to file a registration statement under § 62-13 within 30 calendar days after a building becomes vacant property or within 30 calendar days after assuming ownership of a vacant property, whichever is later, or within 10 calendar days of receipt of notice by the municipality, and failure to provide correct information on the registration statement, or failure to comply with the provisions of such provisions contained herein shall be deemed to be violations of this Article.

### **§62-20. Administration.**

The Township's Zoning Officer or his/her designee shall serve as the municipal official responsible for notifying creditors, establishing and maintaining the registry, determining eligibility for designation as a vacant and abandoned property under this Article, and for imposing fees, penalties, and/or violations. The responsibilities herein may be designated to a third party, pursuant to the terms and conditions of a contract for professional services consistent with P.L. 2021, c.444.

### **§62-21. Use of funds collected.**

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No less than twenty percent (20%) any money collected pursuant to this Article shall be utilized by the Township for municipal code enforcement purposes.

**SECTION 2:** Except as set forth in Section 1 above, the balance the Code of the Township of Berlin 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.

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

Motion by Council President Bodanza, second by Councilman Epifanio to adopt Ordinance 2022-7 on first reading by title. Ordinance adopted by call of the roll, five members present voting in the affirmative.

**ORDINANCE 2022-8 OF THE TOWNSHIP OF BERLIN, COUNTY OF CAMDEN, AND STATE OF NEW JERSEY, AMENDING CHAPTER 40 OF THE TOWNSHIP CODE OF THE TOWNSHIP OF BERLIN ENTITLED "POLICE DEPARTMENT"**

**WHEREAS**, the Township of Berlin ("Township") is a municipal entity organized and existing under the law of the State of New Jersey and located in Camden County; and

**WHEREAS**, Chapter 40 of the Code of the Township of Berlin entitled, "Police Department" establishes the composition, chain of command, appointment and qualification, general powers and duties and other aspects of the Berlin Township Police Department; and

**WHEREAS**, it has been determined by the Mayor and Township Council that amendments to Chapter 40 are necessary to enhance the public safety and promote the general welfare and to make the Police Department more efficient and better able to deliver services to the Township and its residents; 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.

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**NOW THEREFORE BE IT ORDAINED**, by the Mayor and the Township Council of the Township of Berlin hereby amends Chapter 40 entitled, “Police Department” as follows:

**SECTION 1:** Section 40-1 entitled, “Establishment; composition; vacancies; reduction in force; civilian employees.” is hereby revised and amended as follows:

“A. It is hereby created in and for the Township of Berlin a Police Department, which shall consist of a Chief of Police, one Captain, up to three Lieutenants, up to four Sergeants, and up to eleven Patrolman, to be appointed to these positions by the governing body of the Township.”

Section 40-2 entitled, “Chain of command.” is hereby be revised and amended as follows:

“A. The following chain of command shall exist within the Police Department, (1) Chief of Police, (2) Captain, (3) Lieutenant, (4) Sergeant, (5) Patrolman, (6) Special Officer (if any), (7) Civilian Employee.”

Chapter 40-5 entitled, “Chief of Police.” is hereby revised and amended as follows:

“B. Candidates for the position of Chief of Police shall participate in a promotional procedure administered by the appropriate authority. The reviewing committee shall be made up of the appropriate authority, the current Chief of Police (unless he/she is involved in pending discipline or litigation with the Township) and two police executives from other agencies. The reviewing committee shall consider the following: the candidate's knowledge of criminal law and procedure, police science and police administration; leadership and management ability; general knowledge of Berlin Township local government and N.J.S.A. 40A:14-118; knowledge of budgeting and personnel management; the candidate's poise, alertness, ability to communicate clearly and effectively, ability to effect good working and public relations and moral character. To be considered for the position of Chief of Police, the candidate must hold the rank of Captain or Lieutenant.”

Chapter 40-7 entitled, “Promotions.” is hereby revised and amended as follows:

“(C)[2] “Captain or Lieutenant”

“(H) Test Results or any part thereof shall remain valid for a period of two years and subsequent promotions may be made based upon these test results. However, the Township may call for a new promotional process at any time period.”

**SECTION 2:** Except as set forth in Section 40-1 above, the balance of Chapter 40 of the Code of the Township of Berlin 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.



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**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.

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

Motion by Councilman Epifanio, second by Council President Bodanza to adopt Ordinance 2022-8 on first reading by title. Ordinance adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2022-128 RESOLUTION WAIVING THE VACANT AND ABANDONED PROPERTY REGISTRATION FEES UNTIL AMENDMENTS TO CHAPTER 62 OF THE CODE OF THE TOWNSHIP OF BERLIN ARE ADOPTED.**

**WHEREAS**, On January 18, 2022 New Legislation (A2877) was signed into law to seek standardize Vacant and Abandoned Property Registration and associated fees throughout the state and to take effect by August 1, 2022; and

**WHEREAS TO NOW THEREFORE BE IT RESOLVED**, until the amended Ordinance for Chapter 62 of the Code of the Township of Berlin is adopted the Mayor and Council of the Township of Berlin hereby waives all Vacant and Abandoned Property Registration fees.

Motion by Councilman Reid, second by Councilman Epifanio to adopt resolution 2022-128. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2022-129 RESOLUTION REQUESTING THE ISSUANCE OF AN OFF PREMISE RAFFLE LICENSE FOR VIRTUA HEALTH FOUNDATION.**

**WHEREAS**, the Virtua Health Foundation has requested the issuances of an off premise raffle license by the Township of Berlin for;

**Date:** September 22, 2022 8:00 pm  
**Location:** Ott's GreenTop  
588 North Route 73, West Berlin NJ 08091

**Type Raffle:** Off- Premises Draw Raffle

**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 licenses to Virtua Health Foundation.

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Motion by Councilman Reid, second by Councilman Epifanio to adopt resolution 2022-129. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2022-130 RESOLUTION AUTHORIZING THE APPOINTMENT OF RICHARD ANNAONE AND SHANNON WILSON AS PART TIME CLASS II SPECIAL LAW ENFORCEMENT OFFICER (SLEO II) TO PROVIDE SCHOOL SECURITY FOR BERLIN TOWNSHIP PUBLIC SCHOOLS.**

**WHEREAS** the Township of Berlin and Berlin Township Board of Education have agreed to enter into a shared service agreement to provide School Security Officers to the Berlin Township public school; and

**NOW, THEREFORE BE IT RESOLVED**, that the Mayor and Council of the Township of Berlin authorizes the Appointment of **Richard Annacone** and **Shannon Wilson** as Part Time Class II Special Law Enforcement Officers, who will provide School Security for the Berlin Township Public school.

**FURTHER, BE IT RESOLVED** that the School Security Officers shall commence on the first day of school in September 2022 and end on the last day of school accordance with the school calendar.

Motion by Councilman Reid, second by Councilman Epifanio to adopt resolution 2022-130. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2022-131 AUTHORIZATION TO SIGN AN AGREEMENT BETWEEN THE TOWNSHIP OF BERLIN AND THE BERLIN TOWNSHIP BOARD OF EDUCATION FOR SCHOOL SECURITY OFFICERS (“SSOs”)**

**WHEREAS**, the parties hereto are permitted in accordance with N.J.S.A. 40A:65-1 et seq., the Uniform Shared Services and Consolidation Act (“Act”), to enter into an Agreement to provide jointly, or through each respective agency itself, such services authorized by the Act, including areas of general government administration, such as shared services and the like; and

**WHEREAS**, the Township and the School District remain dedicated to providing a safe and secure environment for the two public schools, Dwight D. Eisenhower Middle School and John F. Kennedy Elementary School, and the surrounding area; and

**WHEREAS**, through the combined efforts of the School District and the Berlin Township Police Department, students will continue to receive a quality education in a safe and secure environment; and

**WHEREAS**, the parties hereto desire to establish goals and objectives, including, but not limited to:

- a) Providing on-site security;
- b) Building respect for law enforcement among students;

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- c) Reducing school violence and other crimes;
- d) Providing a direct link to law enforcement;
- e) Improving the responsiveness of the Berlin Twp. Police Department based on community feedback;
- f) Improving school and community relations by addressing the concerns of the surrounding community that are caused by the school and its students; and

**WHEREAS**, in order to meet the above established goals and objectives, the Township shall provide three part-time Special Law Enforcement Officers (“SLEOs”) to act as School Security Officers (“SSO’s”) for the Berlin Township public schools.

**NOW, THEREFORE BE IT RESOLVED**, in consideration of the mutual covenants and agreements set forth between the parties to this agreement, the parties agree as follows. (see attached)

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of Berlin, County of Camden and State of New Jersey, that the Mayor is hereby authorized to sign the agreement between the Township of Berlin and the Berlin Township Board of Education for School Security Officers contingent upon Solicitors review.

Motion by Councilman Reid, second by Councilman Epifanio to adopt resolution 2022-131. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2022-132 RESOLUTION AUTHORIZING THE PURCHASE OF A SPAULDING ASPHALT HOT PATCHER DUMP TRAILER THROUGH THE HOUSTON GALVESTON AREA COUNCIL COOPERATIVE PURCHASING AGREEMENT.**

**WHEREAS**, the Township of Berlin is a participating member of the Houston Galveston Area Council (H-GAC) Cooperative Purchasing Contract Agreement #ILC21-11440: and

**WHEREAS**, together the Township of Berlin and the Borough of Somerdale wishes to purchase a Spaulding Asphalt Hot Patcher Dump Trailer in the amount of \$43,725.00; and.

**WHEREAS**, the Township of Berlin will be the lead agent for this purchase.

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Council of the Township of Berlin hereby approves the purchase of a Asphalt Hot Patcher Dump Trailer through the Houston Galveston Area Council (H-GAC) Cooperative Purchasing Contract Agreement #ILC21-11440, contingent upon the following:

- 1) Township Solicitor review and approval of any and all signed agreements with the Borough of Somerdale.

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- 2) Availability of funds, certified by the Chief financial Officers of the Township of Berlin and the Borough of Somerdale.

Motion by Councilman Reid, second by Councilman Epifanio to adopt resolution 2022-132. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2022-133 APPOINTMENT OF MEMBERS TO THE PLANNING / ZONING BOARD.**

**WHEREAS**, N.J.S.A. 30:44-1.4 provides for the creation, membership and terms of a PLANNING BOARD; and

**WHEREAS**, Section 20-2 et seq., of the Code of the Township of Berlin provides for the creation of a PLANNING/ ZONING BOARD shall consist of the following;

<b>Dominic Dandrea</b>	<b>Class 4</b>	<b>4 year term</b>
<b>Matt Oriente</b>	<b>Alt 1</b>	<b>2 year term</b>
<b>Joe Bodanza</b>	<b>Alt 2</b>	<b>2 year term</b>

**NOW, THEREFORE, BE IT RESOLVED** that the above named individual shall serve his respective term pursuant to the provisions set forth in the New Jersey Statutes Annotated 40:55-1 et seq., and pursuant to the Code of the Township of Berlin, Section 20-1 et seq.

Motion by Councilman Reid, second by Councilman Epifanio to adopt resolution 2022-133. Resolution adopted by call of the roll, four members present voting in the affirmative, Councilwoman Bodanza abstained.

**RESOLUTION 2022-134 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

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**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:

<u>Property: Block/Lot</u>	<u>REASON</u>
343 Magnolia Ave. B-1414 L-4	Lawn care/clean-up PM2 22-006
330 Larch Ave. B-1415 L-24	Lawn care PM2 22-005
215 Fourth Avenue	Lawn care PM2 22-007

**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:

<u>Property: Block/Lot</u>	<u>Date Charged</u>	<u>Amount</u>	<u>Reason</u>
<b>343 Magnolia Ave. B-1414 L-4</b>	<b>8/8/22</b>	<b>\$315.00</b>	<b>lawn care, clean up</b>
<b>330 Larch Ave. B-1415 L-24</b>	<b>8/8/22</b>	<b>\$80.00</b>	<b>lawn care</b>
<b>215 Fourth Avenue</b>	<b>8/8/22</b>	<b>\$150.00</b>	<b>lawn care</b>

**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

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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 Councilman Reid, second by Councilman Epifanio to adopt resolution 2022-134. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2022-135 RESOLUTION REQUESTING THE INSERTION OF A SPECIAL ITEM OF REVENUE AND APPROPRIATION IN THE BUDGET OF ANY COUNTY OR MUNICIPALITY PURSUANT TO THE N.J.S.A. 40A:4-87 (CHAPTER 159 P.L. 1948)**

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Finance may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by Law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of an item of appropriation for equal amount;

WHEREAS, the Chief Financial Officer has certified that the Township has received a Clean Communities Grant from the NJ Department of Environmental Protection for \$14,400.10;

BE IT FURTHER RESOLVED that a like sum of \$14,400.10 and the same is hereby appropriated under the caption of:

Operation "Excluded From CAP"	
Clean Communities Grant	\$14,400.10

BE IT FURTHER RESOLVED that the Township Clerk forward two certified copies of this resolution to the Director of the Division of Local Government Services for approval.

Motion by Councilman Reid, second by Councilman Epifanio to adopt resolution 2022-135. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2022-136 RESOLUTION REQUESTING THE INSERTION OF A SPECIAL ITEM OF REVENUE AND APPROPRIATION IN THE BUDGET OF ANY COUNTY OR MUNICIPALITY PURSUANT TO THE N.J.S.A. 40A:4-87 (CHAPTER 159 P.L. 1948)**

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Finance may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available

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by Law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of an item of appropriation for equal amount;

WHEREAS, the Chief Financial Officer has certified that the Township has received a Local Food Drive Grant from a local resident for \$275.00;

BE IT FURTHER RESOLVED that a like sum of \$275.00 and the same is hereby appropriated under the caption of:

Operation "Excluded From CAP"	
Local Food Drive Grant	\$275.00

BE IT FURTHER RESOLVED that the Township Clerk forward two certified copies of this resolution to the Director of the Division of Local Government Services for approval.

Motion by Councilman Reid, second by Councilman Epifanio to adopt resolution 2022-136. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2022-137 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 **2021** 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

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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:

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 Councilman Reid, second by Councilman Epifanio to adopt resolution 2022-137. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2022-138 RESOLUTION REQUESTING THE ISSUANCE OF A OF A OFF PREMISE RAFFLE LICENSES FOR WEST BERLIN LIONS CLUB FOUNDATION.**

**WHEREAS**, West Berlin Lions Club, has requested the issuances of an off- premise raffle license by the Township of Berlin for;

**Date:** November 19, 2022,  
**Location:** 357 Cleveland Avenue, West Berlin NJ 08091

**Type Raffle:** Off- Premises Draw Holiday Raffle

**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 licenses to West Berlin Lions Club Foundation.

Motion by Councilman Reid, second by Councilman Epifanio to adopt resolution



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2022-138. Resolution adopted by call of the roll, five members present voting in the affirmative.

**RESOLUTION 2022-139 PAYMENT OF BILLS FOR AUGUST 2022.**

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 detailed below and attached are hereby approved and the bills to be paid.

**CONFIRMING:**

<u>TO</u>	<u>CHECK #</u>	<u>ACCOUNT</u>	<u>AMOUNT</u>
Shoprite (06/17/22)	39576	2-01-30-420-2105	\$ 466.88
Atlantic City Electric (07/26/22)	39641	2-01-31-435-2075	\$ 1,882.86
NJ EZ Pass (07/26/22)	39642	2-01-25-240-2105	\$ 57.00
Republic Waste Services (07/26/22)	39643	2-01-32-465-2020	\$ 2,750.10
Wade Salvage (07/26/22)	39644	2-01-32-465-2020	\$ 954.50
Walters Signs (07/26/22)	39645	G-02-40-783-0998	\$ 525.00
Covata Energy LLC (07/26/22)	39646	2-01-32-465-2030/2020	\$ 32,997.83

Motion by Councilman Reid, second by Councilman Epifanio to adopt resolution 2022-139. Resolution adopted by call of the roll, five members present voting in the affirmative.

**Mercantile Business Approvals**

- Nicholas M. Joseph, Spirit Halloween**, 116 Walker Avenue. Retail store For Halloween Decorations and costumes.
- Scott S. Fitzsimmons, Therapeutic Technologies LLC**. 427 Commerce Lane Suites 1-4. Office and Warehouse for medical supply company.

Motion by Council President Bodanza, second by Councilman Reid to approve the Mercantile Business above. Mercantile approved by call of the roll, five members present voting in the affirmative.

**Animal Permits**

- Gina Odegaard**, 265 Fairview Avenue, West Berlin NJ 08091. Permit for 4 Chickens

Motion by Council President Bodanza, second by Councilman Epifanio to table the Animal Permit above. Animal Permit tabled by call of the roll, five members present voting in the affirmative.

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**2) Linda Townsend**, 165 Collings Avenue, West Berlin NJ 08091.  
Permit for 6 Chickens.

**3) Joshua Shellenberger**, 25 Oak Court, West Berlin NJ 08091.  
Permit 4 Chickens.

**4) Joseph Fabrico** 149 McClellan Avenue, West Berlin NJ 08091.  
Permit for 1 Ponies.

**5) Cheryl Green**, 9 Fern Avenue, West Berlin NJ 08091, Permit for 6 for chickens

**6) Samantha Adrian**, 247 Powell Avenue, West Berlin NJ 08091. Permit for 6 chickens

**7) Frank Carns**, 229 Second Avenue, West Berlin NJ 08091 Permit for 5 Chickens

Motion by Councilman Epifanio, second by Council President Bodanza to approve the Animal Permit above. Animal Permit approved by call of the roll, four members present voting in the affirmative, Mayor Magazzu abstained.

### **Kennel Licenses**

1) **Best Friends Pet Care**, 585 Route 73 North, West Berlin NJ  
Dogs and Cats boarding.

Motion by Council Woman Bodanza, second by Councilman Epifanio to approve the Kennel License above. Kennel License approved by call of the roll, five members present voting in the affirmative.

### **Approval for Meeting Minutes for July 11, 2022**

Motion by Councilman Epifanio second by Council President Bodanza to approve the Meeting Minutes for July 11, 2022. Motion carried by voice vote, five members present voting in the affirmative.

### **Approval of the Correspondence Calendar for July 2022**

Motion by Council President Bodanza, second by Councilman Reid to approve the Correspondence Calendar for July 2022. Motion carried by voice vote, five members present voting in the affirmative.

### **Approval of the Consent Calendar for July 2022**

Motion by Councilman Epifanio, second by Council President Bodanza to approve the Consent Agenda for July 2022. Motion carried by voice vote, five members present voting in the affirmative.

**AUGUST 8, 2022**

**All Other Business**

Berlin Township 4<sup>th</sup> Annual Fall Festival and the Celebration of the 50<sup>th</sup> Year Anniversary of the Berlin Township Police Department will be held on October 1, 2022, 3-7pm at Day Avenue Recreation Complex.

**Public Portion**

Motion by Councilman Epifanio, second by Council President 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.

Resident from Montebello, Piedmont BLVD asked when will the Engineer and builder be walking through and inspecting the work.

Township Engineer, Chuck Riebel replied this week.

Resident from Minck Avenue asked for an update since the last meeting. His concerns were for speeding down the road and suggested speed bumps.

Mayor replied that she has spoken to the Fire Department and they have concerns about the speed bumps and would like to come to a meeting and address them.

Mayor Magazzu asked Officer in Charge, Lt Sheehan if they could possible patrol the street more frequently in the mean-time. OIC, Lt Sheehan asked the resident to call him to see if there is a specific time that has a high volume of speeding.

No more comments were to be heard.

Motion by Council Woman 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.

**Adjourn**

Motion by Councilman Epifanio, second by Council Woman Bodanza to adjourn the meeting at 6:05 pm. Motion carried by voice vote, all members voting in the affirmative. Meeting adjourned 6:05 pm