



BERLIN MAYOR AND COUNCIL
Meeting Agenda

Berlin Town Hall
10 William Street
Monday, March 25, 2019

6:30 PM EXECUTIVE SESSION – Conference Room

- a. Pursuant to Section §3-305(b)(1) To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals;

7:00 PM REGULAR SESSION – Council Chambers

1. Approval of the Minutes for:
 - a. Executive Session of 03/11/19
 - b. Statement of Closure for Executive Session of 03/11/19
 - c. Regular Session of 03/11/19
2. Public Hearing: Cable Television Franchise Agreement
3. Motions to Approve:
 - a. Motion 2019-08: Motion approving the transfer of one Equivalent Dwelling Unit (EDU) from Lot 33 Parcel 1369 in the Woodland Park Subdivision to the Habitat for Humanity at 21 Jefferson Street – Lauren Bunting
 - b. Electric Utility Administrative Matters:
 - i. Motion 2019-09: Motion re-approving the Town's PJM Risk Management Policy and reauthorizing the Town Administrator to represent the Town in hearings before the Maryland Public Service Commission – Town Administrator Laura Allen
 - ii. Motion 2019-10: Motion re-approving the agreement with Betts and Holt, LLP for legal services regarding the Electric Department and other energy related matters – Town Administrator Laura Allen
4. Resolution 2019-02: Resolution re-affirming the Master Services Agreement for wholesale electric purchases and authorizing execution of schedules and confirmations thereunder within certain parameters – Town Administrator Laura Allen
5. FY 2019 Mid-Year Budget Report – Finance Director Natalie Saleh
6. Departmental Reports

7. Town Administrator's Report
8. Comments from the Mayor
9. Comments from the Council
10. Comments from the Public
11. Comments from the Press
12. Adjournment

Anyone having questions about the meetings mentioned above or needing special accommodations should contact Laura Allen, Town Administrator at (410) 641-4144. Written materials in alternate formats for persons with disabilities are made available upon request.

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TTY users outside Maryland dial 1-800-735-2258*



BERLIN MAYOR AND COUNCIL
Meeting Minutes
Monday, March 11, 2019

Agenda Item # 1C

7:00 PM REGULAR SESSION – Berlin Town Hall Council Chambers

Present: Mayor Gee Williams, Vice-President Elroy Brittingham, Councilmembers Thom Gulyas, Zackery Tyndall, Dean Burrell, and Troy Purnell.

Staff Present: Town Administrator Laura Allen, Managing Director Jeff Fleetwood, Administrative Services Director Mary Bohlen, Finance Director Natalie Saleh, Water Resources/Public Works Director Jane Kreiter, Police Chief Arnold Downing, Electric Utility Director Tim Lawrence, Planning Director Dave Engelhart, Economic and Community Development Director Ivy Wells, Town Attorney David Gaskill, and Town Clerk Kelsey Jensen.

Following the Lord’s Prayer and Pledge of Allegiance, Mayor Williams called the meeting to order at approximately 7:05 PM.

1. Approval of the Minutes for:

a. Executive Session of 02/25/19:

On the motion of Councilmember Tyndall, the Executive Session minutes of February 25, 2019 were approved by the following vote:

Name	Counted toward Quorum			Recused	Absent
	Aye	No	Abstain		
Elroy Brittingham, VP	X				
Dean Burrell	X				
Troy Purnell	X				
Thom Gulyas	X				
Zackery Tyndall	X				
<i>Voting Tally</i>	5				

b. Statement of Closure for Executive Session of 02/25/19:

Mayor Williams read the Statement of Closure.

c. Regular Session of 02/25/19:

On the motion of Councilmember Tyndall, the Regular Session Minutes of February 25, 2019 were approved by the following vote:

Name	Counted toward Quorum			Recused	Absent
	Aye	No	Abstain		
Elroy Brittingham, VP	X				
Dean Burrell	X				
Troy Purnell	X				
Thom Gulyas	X				
Zackery Tyndall	X				
<i>Voting Tally</i>	5				

2. Worcester Youth and Family Youth Program Grant Application for a rain garden, signs, and solar trash compactors in Henry Park

Steve Taylor and Tiffany Scott with Worcester Youth and Family presented information on their grant. Councilmember Burrell asked if we can include Stephen Decatur Park in the request; the Mayor suggested trying for Stephen Decatur Park next year if not this year. Ms. Scott said it all depends on the funding available. Overall, the Mayor and Council was supportive of the grant.

3. Presentation: Water and Sewer Rate Study

Rob Duma, P.E. with Davis Bowen and Friedel, Inc., presented information on the Water and Sewer rate study. Councilmember Tyndall said he would like to see something in place for water like the energy audits that the electric department does; Ms. Allen said we would look into possibilities. Councilmember Burrell asked about the number of users that would not be affected with the proposed rate changes; Ms. Allen said about 32% and that about 50% of users would only see a 5% increase in year one. Councilmember Tyndall asked Mr. Duma about variable rates based on building classifications; Mr. Duma said it's mixed, some municipalities do have different rates, but they suggest one rate. Councilmember Tyndall then asked if future annexed areas could see a different rate; Mr. Duma said that you could use a variable rate for annexed areas if the software allows that. Councilmember Tyndall asked about EDUs and covering debt service; Ms. Saleh said ideally, we would like to have at least 32 EDUs a year to cover the debt service minimum payment, but we have exceeded that amount each year which helped to minimize the existing debt. Mayor Williams added that the past rate study did not correctly predict the amount that it would take to run a sparysite; the spraysites are important and prevent us from dumping waste water into the coastal bays.

4. Motions to Approve:

- a. Motion 2019-06: Motion awarding a contract to Coastal Site Works, LLC for the demolition of seven small buildings and the digester at Berlin Falls Park in an amount not to exceed \$124,000

Town Administrator Laura Allen discussed the RFQ that was advertised. She explained that bond money was set aside for capital improvements at the property which would include a project like this.

On the motion of Vice-President Brittingham, Motion 2019-06 was approved by the following vote:

Name	Counted toward Quorum			Recused	Absent
	Aye	No	Abstain		
Elroy Brittingham, VP	X				
Dean Burrell	X				
Troy Purnell		X			
Thom Gulyas	X				
Zackery Tyndall	X				
<i>Voting Tally</i>	4	1			

- b. Motion 2019-07: Motion approving the FY 20 Program Open Space Annual Development Program as presented

Administrative Services Director Mary Bohlen explained this annual motion and asked for the Council's approval.

On the motion of Councilmember Burrell, Motion 2019-07 was approved by the following vote:

Name	Counted toward Quorum			Recused	Absent
	Aye	No	Abstain		
Elroy Brittingham, VP	X				
Dean Burrell	X				
Troy Purnell	X				
Thom Gulyas	X				
Zackery Tyndall	X				
<i>Voting Tally</i>	5				

5. Departmental Reports:

a. Finance Director – Natalie Saleh

Ms. Saleh reported that she will be meeting with Department Heads this week to discuss their budget requests. She also mentioned that the budget work sessions are on April 1st and April 15th.

b. Water Resources/Public Works Director – Jane Kreiter

Ms. Kreiter congratulated Meghan Pfaller on passing her Maryland Department of the Environment water exam. She also reported that with all of the rain we’ve had, about 1.2 million gallons of water have gone through the plant per day. Normally, it’s about 400,000 gallons per day. She said when things dry up they will work on ditches and getting things back to normal at the plant. Councilmember Purnell asked if that is infiltrated water; she replied that some of it is. Councilmember Burrell asked why the potholes are much worse this year; she replied that it is due to the weather we’ve been experiencing. Vice-President Brittingham asked what happened with the lift station by his property; she replied that it was a clogged pump.

c. Electric Utility Director – Tim Lawrence

Mr. Lawrence reported that they are moving forward on taking over SonRise electric service. They have Reliable Meter Service in town to test meters, it’s required every three years. They are starting the number two engine rebuild this week. They also have installed new underground service and replaced Victorian lights.

d. Planning and Zoning Director – David Engelhart

Mr. Engelhart reported information on the resilience meetings and a controlled burn on Flower. He discussed the Planning Commission Meeting which will include a public hearing on the annexation of the property across from Berlin Main Place and a revision to Purnell Crossing North.

e. Economic and Community Development Director – Ivy Wells

Ms. Wells reported that tomorrow she will be meeting with a local author about a book based in Berlin. There will be two videos made in Berlin, one for arts and one for businesses. This year is the 20th anniversary of the film Runaway Bride. Toy Town will be opening a second location in Berlin. Two new stores, Dusty Lamp and Madison Avenue Boutique will be opening in Berlin. She will be attending the Main Street Meeting in Seattle. Lastly, the farmers market will be from May 5th to September 29th on Pitts Street by J&M Meat Market; they will have a bus run from Gull Creek to allow the senior citizens to have transportation.

f. Managing Director – Jeffrey Fleetwood

Mr. Fleetwood reported that on the March 15th the employee service recognition will take place. On March 20th there will be town wide ethics training. On April 15th at the budget work session Chris Carroll will be present to present insurance information. Lastly, in June there will be a

defensive driving class, and a social security administration meeting which will be open to the public.

g. Police Chief – Arnold Downing

Chief Downing said on Thursday Berlin assisted with the distracted driver initiative and stopped 32 drivers, he does not have the total number yet. On Wednesday he and lieutenant Fisher will be attending a Police meeting in Cambridge and on Thursday he will be attending MML's Police Executive Meeting. Lastly, he is assisting Snow Hill in the hiring process for their new Chief.

6. Town Administrator's Report – Laura Allen

Ms. Allen reported information on the upcoming Resilience Meetings. Mayor Williams said the purpose is to get the Town involved in the process, so he encourages everyone to attend.

7. Comments from the Mayor:

Mayor Williams addressed budget concerns and explained the budget process; he said the budget work session schedule is available in the back of the room. He also advised that the Town Administrator will forgo any pay increase if the Town employees will not be receiving one. He mentioned that they have requested all of the departments to decrease their budgets by 10%. Lastly, he said the Town Administrator implements the policies and does not make them, the Council makes the policies.

8. Comments from the Audience:

The following individuals expressed concerns and raised questions about property taxes, water and sewer rates, and other budgetary items:

Jeffrey Auxer – Jefferson Street

Cindi Krempel – Broad Street

Betty Hudson – Middle Street

Kim Holloway – Davis Court

James Meckley – Buckingham Rd.

Jason Bratton – Middle Street

James Manley – Washington Street

Grayson Mayne – Upshur Lane

Jordan Pippin – Penders Court

Bill Todd – West Street

Marie Velong – West Street

Sharon Mayne – Upshur Lane

Jennifer Dawicki – Mill Road

Charles Mangano inquired about Air BNBs; he was asked to contact Planning Director Dave Engelhart.

Larry Ryan wanted to ask the Town and its residents to support the renewable energy house and senate bills.

9. Comments from the Press – none.

10. Comments from the Council:

Councilmember Tyndall made a Motion to hold a public hearing regarding the proposed increases before the budget process begins; he suggested March 26th at 6pm at a local school. Councilmember Burrell said he believes there is ample time at the next Council Meeting on March 25th. James Meckley said he wanted to speak during the meeting but was not aware that he could

until public comment; the Council informed the public that they are welcomed to speak at any point during a Council Meeting.

On the motion of Councilmember Tyndall, the Motion to hold a public hearing on March 26th at 6:00 PM with the location to be determined was approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Elroy Brittingham, VP	X				
Dean Burrell		X			
Troy Purnell		X			
Thom Gulyas	X				
Zackery Tyndall	X				
<i>Voting Tally</i>	3	2			

11. Adjournment:

On the motion of Councilmember Burrell, the Mayor and Council meeting was adjourned at approximately 9:35PM.

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Elroy Brittingham, VP	X				
Dean Burrell	X				
Troy Purnell	X				
Thom Gulyas	X				
Zackery Tyndall	X				
<i>Voting Tally</i>	5				

Respectfully Submitted,

Kelsey Jensen
Town Clerk

Public Hearing:

Cable Television Franchise Agreement



MOTION OF THE MAYOR AND COUNCIL 2019-08

A MOTION OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN APPROVING THE TRANSFER OF ONE EQUIVALENT DWELLING UNIT (EDU) FROM LOT 33 PARCEL 1369 IN THE WOODLAND PARK SUBDIVISION TO THE HABITAT FOR HUMANITY AT 21 JEFFERSON STREET.

APPROVED THIS ____ DAY OF _____, 2019 BY THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, MARYLAND BY AFFIRMATIVE VOTE OF ____ TO ____ OPPOSED, WITH ____ ABSTAINING, AND ____ ABSENT.

Elroy Brittingham, Sr. Vice President

Approved this ____ day of _____, 2019 by the Mayor of the Town of Berlin.

Wm. Gee Williams, III, Mayor

ATTEST: _____
Laura Allen
Town Administrator

March 11, 2019

To:
Town of Berlin Mayor and Town Council
ATTN: Laura Allen, Town Administrator

From:
Brenda Burbage
114 Maple Drive
Berlin, MD 21811

I am requesting permission to donate one of my Equivalent Dwelling Units (EDU) that is currently dedicated to Lot 33/Parcel 1369/Woodland Park Subdivision in the town of Berlin, MD to Habitat for Humanity of Worcester County for their use in the future development at 21 Jefferson St., Berlin, MD.

The property at 114 Maple Drive is being sold to a new owner as of March 15, 2019, and it conveyed with one EDU for the existing house, and one additional EDU that is assigned to Lot 34 for the new owner to be able to build a residence in the future on Lots 33 & 34 combined.

I have retained the EDU that is dedicated to Lot 33.

Respectfully,

A handwritten signature in cursive script that reads "Brenda Burbage". The signature is written in black ink and is positioned above the printed name.

Brenda Burbage



MOTION OF THE MAYOR AND COUNCIL 2019-09

A MOTION OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN APPROVING REINSTATING THE TOWN'S PJM RISK MANAGEMENT POLICY AND REAUTHORIZING THE TOWN ADMINISTRATOR TO REPRESENT THE TOWN IN HEARINGS BEFORE THE MARYLAND PUBLIC SERVICE COMMISSION AND TO TAKE ACTIONS THERE ON ITS BEHALF RELATED TO THE PROCEEDINGS.

APPROVED THIS ____ DAY OF _____, 2019 BY THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, MARYLAND BY AFFIRMATIVE VOTE OF ____ TO ____ OPPOSED, WITH ____ ABSTAINING, AND ____ ABSENT.

Elroy Brittingham, Sr. Vice President


Approved this ____ day of _____, 2019 by the Mayor of the Town of Berlin.

Wm. Gee Williams, III, Mayor

ATTEST: _____
Laura Allen
Town Administrator



STAFF REPORT

To: Mayor and Members of the Town Council
From: Town Administrator Laura Allen 
Date: March 25, 2019
Subject: PJM Risk Management Policy

RECOMMENDATION

Staff recommends the Council adopt a motion re-approving the Town's PJM Risk Management Policy and re-authorizing the Town Administrator to represent the Town in hearings before the Maryland Public Service Commission.

EXECUTIVE SUMMARY

As a PJM¹ member, the Town is required to maintain a Risk Management Policy which covers its transactions in the energy market and its PJM activities. On the advice of the Town's Electric Utility attorney, staff also recommends the Council re-authorize the Town Administrator to serve as the Town's representative at Maryland Public Service Commission hearings and to take actions there on its behalf related to the proceedings.

FISCAL IMPACT

There is no direct fiscal impact associated with this activity.

ANALYSIS

The Policy was revised in 2015 after the Town joined American Municipal Power (AMP) to address the usage of financial transmission rights² (FTRs) to hedge energy congestion³ risk and to include AMP as a possible source of assistance under the Procedure section.

¹ PJM is a Regional Transmission Organization (RTO) in the United States. It is part of the Eastern Interconnection grid operating an electric transmission system serving all or parts of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia and the District of Columbia

² A Financial Transmission Right (FTR) is a financial instrument awarded to bidders in the FTR Auctions that entitle the holder to a stream of revenues (or charges) based on the hourly Day Ahead congestion price differences across the path.

³ Heavy use of the electricity grid produces congestion, a situation in which the lowest-priced electricity can't flow freely to a specific area. When the lowest-priced electricity can reach all locations, prices are

CONCLUSION

Staff recommends the Council adopt a motion restating the Town's PJM Risk Management Policy, and re-authorizing the Town Administrator to represent the Town in hearings before the Maryland Public Service Commission.

Attachment
A. Policy

the same across the entire PJM grid. When there is heavy use of the transmission system, the lowest-priced energy cannot flow freely to some locations. In that case, more-expensive but advantageously located electricity is ordered to meet that demand. As a result, the locational marginal prices are higher on the receiving end of the congestion and lower on the sending end.

Mayor and Council of the Town of Berlin, Maryland

PJM Risk Management Policy

Revised April 27, 2015

Policy:

Participation on behalf of the Town in PJM markets will be limited to, procurement of financial transmission rights (FTRs) using the annual and monthly auctions with the sole purpose to hedge congestion risk, make arrangements for Network Integration Transmission Service (NITS) and associated Ancillary Service, capacity obligations (Locational Reliability) functions necessary to maintain the Town's membership in PJM in good standing. Such activities will include participation in the annual process for requesting load-serving transmission credits (Auction Revenue Rights) to offset a portion of NITS charges. The Town does not authorize participation on its behalf in any other PJM market activities, unless specifically authorized in writing by the Mayor and Council in advance.

Procedure:

The Town Administrator is authorized to act on the Town's behalf in transactions with PJM within the limits of the Town's Policy. Assistance may be provided under the Town Administrator's direction by the Town's electrical consultant or through the Town's membership in American Municipal Power (AMP). The Town Administrator will report on PJM activities to the Mayor and Council periodically, but not less than quarterly, including a summary of PJM expenses and outstanding commitments.

Control:

The Town does not authorize participation in PJM's energy hedging markets in the normal course of operations under this Policy. PJM activities are limited to those transactions necessary to provide for delivery of energy to the Town, satisfy the Town's capacity obligation to PJM, reduce congestion risk, and maintain the Town's membership in PJM in good standing. Such activities will be conducted by or under the direction of the Town Administrator with regular reporting to the Mayor and Council.



MOTION OF THE MAYOR AND COUNCIL 2019-10

A MOTION OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT WITH BETTS AND HOLT, LLP FOR LEGAL SERVICES REGARDING THE ELECTRIC DEPARTMENT AND OTHER ENERGY RELATED MATTERS.

APPROVED THIS ____ DAY OF _____, 2019 BY THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, MARYLAND BY AFFIRMATIVE VOTE OF ____ TO ____ OPPOSED, WITH ____ ABSTAINING, AND ____ ABSENT.

Elroy Brittingham, Sr. Vice President


Approved this ____ day of _____, 2019 by the Mayor of the Town of Berlin.

Wm. Gee Williams, III, Mayor

ATTEST: _____
Laura Allen
Town Administrator



STAFF REPORT

To: Mayor and Members of the Town Council
From: Town Administrator Laura Allen 
Date: March 25, 2019
Subject: Re-approving Betts & Holt LLP Agreement

RECOMMENDATION

Staff recommends the Council adopt a motion re-approving the Betts & Holt Agreement.

EXECUTIVE SUMMARY

The Town has worked with Betts & Holt to address a variety of legal issues associated with the Town's electric utility since 2011. The firm has provided excellent service, assisting the Town with wholesale electricity procurement, negotiation of Master Power Purchase and Sale Agreements as well as Confirmation Letters for the delivery of power and energy. Betts & Holt also provides legal advice regarding Public Service Commission hearings and related processes.

The attached Agreement was revised in 2018 to expand the types of services Betts & Holts provides to specifically include other forms of energy such as natural gas and solar. The updated agreement also enabled Betts & Holts to advise the Town on energy related franchise agreements.

The Mayor and Council typically review the agreement on an annual basis and amend it or re-approve it.

FISCAL IMPACT

The Town has spent an average of \$21,500 on these services over the past two fiscal years. Restating the Agreement will not negatively impact the Berlin Electric's budget.

ANALYSIS

In 2011, the Town entered into an Agreement with Betts & Holt LLP to assist with the procurement of electricity and to serve as special counsel for electric matters. The Council

authorized the Mayor to enter into a revised agreement with Betts & Holt in 2013, and 2016, which included a rate increase, and in 2018, which did not include a rate increase.

Betts & Holt LLP has expertise that Town staff does not

Betts & Holt represents a variety of public electricity consumers. The firm has expertise in the wholesale electricity markets and familiarity with federal transmission issues which Town staff does not.

Work is assigned to Betts & Holt on an as needed basis when their expertise is required.

Attachment:

- Current Agreement

BETTS & HOLT LLP

COUNSELLORS AT LAW

1100 17th STREET, NW • SUITE 901 • WASHINGTON, DC 20036

TELEPHONE 202.530.3380 • FAX 202.530.3389

February 2, 2018

Laura Allen ICMA-CM, CPFO
Town Administrator
Town of Berlin
10 William Street
Berlin, MD 21811

RE: Special Counsel for Electric and Other Energy Related Matters

Dear Ms. Allen:

In January 2016, the Town of Berlin authorized Betts & Holt LLP to continue to represent the Town of Berlin regarding legal matters concerning the electric utility and we entered into a retainer letter with the Town at that time. This letter refreshes that agreement, and serves as a special services contract that, if acceptable to Berlin, may be executed and returned to Betts & Holt LLP. We appreciate your confidence and look forward to continuing a rewarding professional relationship with you.

Scope of Services

Betts & Holt LLP will serve as special counsel to the municipal electric utility of the Town of Berlin, Maryland. These services include matters related to wholesale electricity procurement, including additional future purchases from AMP or other providers. This could require the negotiation of Master Power Purchase and Sale Agreements and Confirmation Letters for delivery of power and energy in future periods, on either a full requirements or block purchase basis.

Betts & Holt LLP will assist Berlin with preparing testimony, providing data responses and negotiating arrangements related to the Purchased Power Cost Adjustment annual review at the Maryland Public Service Commission, Case No. 9508 and sub-dockets. Berlin plans to represent itself at the hearing, but if necessary Betts & Holt LLP attorneys can attend the hearing on behalf of Berlin. The budget for this work ranges from \$3,500 to \$7,000, depending on whether attendance at the hearing is required and whether any unfavorable appeals are filed.

In addition, Betts & Holt LLP may address other matters and issues that arise from time to time including franchise renewals, retail renewable energy issues such as solar installations, questions and concerns related to retail demand response, transmission support to Berlin, pole attachment fees, and other matters that may arise affecting Berlin's supply and distribution of electricity or other energy related matters.

Provider of Services

Betts & Holt LLP, a partnership located at 1100 17th St., Suite 901, Washington, DC 20036, will serve as special counsel to Berlin and, in that capacity, provide legal counsel, professional advice, and representation in the matters described above under Scope of Services and with such other matters as may be assigned or authorized by Berlin. The Firm is AV rated, which signifies the highest level of legal ability and very high adherence to the professional standards of conduct, ethics, reliability, and diligence, and it is listed in The Bar Register of Preeminent Lawyers.

Communications

Jill Barker, a senior attorney with the Firm, will act as lead counsel with Kirk Howard Betts and Mary-Kate Rigney. We expect to maintain a “lean” representation.

We will provide you copies of all documents that we prepare or receive. In the event that a document that we prepare is confidential in nature, we will seek your consent before sending it to anyone else.

We will prepare periodic status report to the Town of Berlin as you direct.

We will respond to your telephone calls and e-mails promptly. The telephone number for Betts & Holt LLP is 202-530-3380; our e-mail addresses are kbetts@bettsandholt.com, jmb@bettsandholt.com and mkrigney@bettsandholt.com.

Professional Fees

Our fees will not exceed \$350 an hour for partners (Mr. Betts), \$350 an hour for Of Counsel (Ms. Barker), \$165 an hour for associates, and \$70 for legal assistants during 2018.

Expenses associated with the representation (long-distance telephone, travel to the Town, meals and lodging while traveling, postage, photocopying, and on-line research costs) are considered to be reimbursable.

Our customary practice is to bill for time and expenses on a monthly basis. Remittance within 30 days is expected. If Berlin has specific practices or procedures that would make the billing process more convenient, please let us know.

Relevant Experience and Qualifications

A Firm profile and biographical sketches for each attorney involved in this representation are enclosed.

February 2, 2018

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Betts & Holt LLP represents a variety of public electricity consumers. It has represented the Public Power Association of New Jersey ("PPANJ") since the Firm was formed in 1996, although attorneys of the firm have represented PPANJ since 1986. Similarly, Betts & Holt LLP has represented individual members of the PPANJ in electricity procurement issues and other FERC matters since 1996. The PPANJ membership consists of the City of Vineland, NJ, Sussex Rural Electric Cooperative and eight other municipal utilities in New Jersey. Other public entities represented by Betts & Holt LLP include the City of Dover, Delaware since 1996, the Cities of Natchitoches, Ruston and Minden, Louisiana since 2000, and the District of Columbia Water and Sewer Authority from 2004 through 2008 and again from 2013 to 2015. Betts & Holt LLP represented the University of Maryland, College Park in electricity matters (1996 through 2007) and the City of Lincoln, Nebraska and Missouri River Energy Services (2004 to 2006) regarding natural gas matters. Betts & Holt LLP also represented the Town of Moreau, NY (2003 - 2004) and the City of Alma, Michigan (ending in 2001) regarding municipalization. The firm has represented Blue Ridge Power Agency, ending in 2000, the Delaware Municipal Electric Corporation and three of its members, Newark, New Castle, and Lewes, Delaware.

We look forward to working with you. Kindly acknowledge and return the enclosed copy of this letter to confirm the terms of our engagement.

Faithfully yours,

BETTS & HOLT LLP



by Kirk Howard Betts

Accepted:



2/12/18

Date

Name: William Gee Williams, III

Title: Mayor
Town of Berlin, Maryland

Enclosures



RESOLUTION NO. 2019-02

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, A MUNICIPAL CORPORATION OF THE STATE OF MARYLAND, AFFIRMING MASTER SERVICES AGREEMENT FOR WHOLESALE ELECTRIC PURCHASES AND AUTHORIZING EXECUTION OF SCHEDULES AND CONFIRMATIONS THEREUNDER WITHIN CERTAIN PARAMETERS

WHEREAS, pursuant to prior Council resolution(s) the Town of Berlin entered into an umbrella **Master Services Agreement** with American Municipal Power, Inc. ("AMP") dated February 9, 2015 governing Berlin's purchase of wholesale electricity; and

WHEREAS, pursuant to this **Master Services Agreement** the Town entered into a **Supply Schedule**, Town of Berlin, MD 2018-2020 Remaining Requirements Energy **Supply Schedule**, AMP Contract Number 2016-002828-SCHED dated March 15, 2016 that governs the terms of AMP's solicitation of electricity service providers to provide bids to Berlin, and is effective for deliveries through December 31, 2020; and

WHEREAS, pursuant to this **Master Services Agreement** and **Supply Schedule** the Town entered into a **Transaction Confirmation** on March 17, 2016 that provides for a specified supplier to deliver electricity to Berlin at a fixed price for the period from January 1, 2018 through December 31, 2020; and

WHEREAS, the Mayor and Council of the Town of Berlin have reduced wholesale purchased energy costs by approximately 8% over the past five years; and

WHEREAS, Berlin Electric has some of the lowest rates in the region; and

WHEREAS, the Mayor and Council recognize that the energy market changes quickly and the Town needs to be able to make the most of energy cost reduction opportunities to keep electric rates low while exercising diligence and oversight over power purchase decisions;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Berlin as follows:

The above referenced **Master Services Agreement**, **Supply Schedule** and **Transaction Confirmation** are hereby affirmed by the Town Council; and

In recognition that the electricity delivery period of the existing **Supply Schedule** and **Transaction Confirmation** ends December 31, 2020 and that planning for electricity deliveries commencing January 1, 2021 is now expedient, the Town Council hereby authorizes the Mayor and the Town Administrator to negotiate and enter into new Supply Schedule(s) and Transaction Confirmation(s) for delivery periods commencing January 1, 2021 under the following conditions:

- The purchase(s) must be consistent with state and federal requirements;
- The per megawatt hour (MWh) cost can be no higher than \$42 MWh at the DPL Zone or closer to Berlin;
- The Town Administrator has documented evidence that competitive practices were followed;
- The term of the purchase can be no longer than 6 years;

- The last date of delivery can be no later than December 31, 2026.

Once a Supply Schedule and/or Transaction Confirmation has been executed, the Town Administrator must submit a report to the Mayor and Council at the next regular public meeting.

Approved this ____ day of _____, 2019 by the Mayor and the Town of Berlin, Maryland, by affirmative vote of _____ to _____ opposed, with _____ abstaining, and _____ absent.

Elroy Brittingham, Vice President

Approved this ____ day of _____, 2019 by the Mayor and Town of Berlin.

ATTEST:


Wm. Gee Williams, III, Mayor

Laura Allen, Town Administrator



STAFF REPORT

To: Mayor and Members of the Town Council

From: Town Administrator Laura Allen 

Meeting Date: March 25, 2019

Subject: Re-approving Annual Trading Resolution

RECOMMENDATION

Staff recommends the Mayor and Council adopt a motion re-approving the Annual Trading Resolution (Attached) which authorizes the Mayor and Town Administrator to negotiate and execute new electric power supply purchases for delivery periods commencing January 1, 2021, as long as:

- The purchase(s) are be consistent with state and federal requirements;
- The per megawatt hour (MWh) cost is no higher than \$42 MWh at the DPL Zone or closer to Berlin;
- The Town Administrator has documented evidence that competitive practices were followed;
- The term of the purchase is no longer than 6 years;
- The last date of delivery is no later than December 31, 2026.

EXECUTIVE SUMMARY

The Town entered into an umbrella Master Services Agreement with American Municipal Power, Inc. (AMP) in February of 2015. On March 15, 2016, Berlin executed an Electric Power Purchase Supply Schedule (Supply Schedule) which ends on December 31, 2020. It's prudent to start planning for the next power purchase. The Town has reduced its purchased power cost by approximately 8% over the past five years. The energy market can change quickly. The Town needs to make the most of energy cost reduction opportunities to keep electric rates low while exercising diligence and oversight over power purchase decisions.

The Mayor and Council approved the Trading Resolution on November 13, 2018. Betts and Holt, LLP, the Town's energy attorneys recommend the Resolution be reviewed and approved each year.

FISCAL IMPACT

The Resolution has no direct cost.

ANALYSIS

Staff recommends adopting the Annual Trading Resolution to put the Town in the best position to take advantage of price reductions in the energy market. The market can change quickly. Granting negotiation and transaction authority to the Mayor and Town Administrator will enable the Town to make the most of opportunities to keep electric rates low while exercising diligence and oversight over power purchase decisions.

Reporting Requirement

The Resolution requires the Town Administrator to submit a report to the Mayor and Council at the next regular public meeting after an electric power purchase agreement has been executed.

Annual Review and Approval

Each spring the Mayor and Council are asked to take several administrative actions regarding the electric utility:

1. Review and affirm the PJM Interconnection¹ Risk Management Policy,
2. Restate the contract with Betts & Holt, LLP for legal services, and
3. Reauthorize the Town Administrator to represent the Mayor and Council before the Maryland Public Service Commission.

This year, staff added the review and approval of the Annual Trading Resolution to the list of administrative actions.

CONCLUSION

Staff recommends the Mayor and Council adopt a motion approving the Annual Trading Resolution which authorizes the Mayor and Town Administrator to negotiate and execute new electric power supply purchases for delivery periods commencing January 1, 2021 under certain conditions.

Attachments:

1. Resolution
2. Rate Comparison

¹ PJM Interconnection is a regional transmission organization (RTO) that coordinates the movement of wholesale electricity in all or parts of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia and the District of Columbia.

Presentations:

FY 2019 Mid-Year Budget Report

– Finance Director Natalie Saleh