



Mayor & Council of Berlin

10 William Street, Berlin, Maryland 21811

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Mayor
Wm. Gee Williams, III

Vice President
Elroy Brittingham, Sr.

Council Members
Dean Burrell, Sr.
Lisa Hall
Paula Lynch
Troy Purnell

Town Attorney
David Gaskill

Town Administrator
Anthony J. Carson, Jr.

BERLIN, MARYLAND

MAYOR AND COUNCIL MEETING

MONDAY, NOVEMBER 8, 2010

**COUNCIL CHAMBERS – BERLIN TOWN HALL
10 WILLIAM STREET
BERLIN, MD 21811**

EXECUTIVE SESSION6:00 PM

REGULAR SESSION7:00 PM

Anyone having questions about the meetings mentioned above or needing special accommodations should contact Tony Carson, Town Administrator at (410) 641-4144

*TTY users dial 7-1-1 in the State of Maryland
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**BERLIN MAYOR AND COUNCIL
COUNCIL MEETING
AGENDA
Wednesday, November 8, 2010**

6:00 PM EXECUTIVE SESSION - Berlin Conference Room

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

1. Approval of the Minutes for:
Regular Session of the Mayor and Council on October 25, 2010
2. Request for Special Event – Christmas Parade
December 2, 2010 7:00 p.m.
3. Public Hearing - Ordinance 2010-11
An Ordinance of the Mayor and Council amending §107-34, District regulations R-1 residence district.
4. Introduction of Ordinance 2010-12
An Ordinance of the Mayor and Council amending §107-5, Definitions
Public hearing to be held November 22, 2010
5. Introduction of Ordinance 2010-13
An Ordinance of the Mayor and Council exempting the Town from the requirements of section R313.2 of the International residential code which mandates the installation of automatic residential fire sprinkler systems in all new one and two family dwellings effective January 1, 2011. Public hearing to be held November 22, 2010.
6. Resolution 2010-16
A Resolution of the Town of Berlin approving the receipt and re-grant of six million dollars in federal funding from the Maryland Department of Housing and Community Development for the EECBG Program.
7. Departmental Reports
 - a. Finance
 - b. Deputy Town Administrator
 - c. Public Works
 - d. Water Resources
 - e. Electric
 - f. Police
 - g. Planning and Zoning
 - h. Human Resources
 - i. Economic and Community Development
8. Town Administrator's Report

9. Comments from the Mayor
10. Comments from the Council
11. Comments from the Public
12. Comments from the Press
13. Adjournment

MAYOR AND COUNCIL OF BERLIN MARYLAND

Regular Session

Monday, October 25, 2010

Council Vice-President Brittingham called the Regular Meeting of the Mayor and Council of Monday, October 25, 2010 to order at 7:05 PM. Councilmembers Burrell and Hall were present as well as Town Administrator Tony Carson and Town Attorney David Gaskill. Electric Utility Director Tim Lawrence, Planning & Zoning Director Chuck Ward, Police Chief Arnold Downing, Economic and Community Director Michael Day, Finance Director Lynn Musgrave, Director of Water Resources Jane Kreiter and Deputy Town Administrator Mary Bohlen were also present. Mayor Williams and Councilmember Purnell were absent. Councilmember Lynch joined the meeting in progress immediately following the Pledge of Allegiance.

Following the Lord's Prayer and the Pledge of Allegiance the Minutes of the October 13, 2010 Executive Meeting were reviewed. Councilmember Lynch moved to approve the Minutes as presented and approval was unanimous. Council Vice-President Brittingham read the Statement of Closure for the Executive Session of October 13, 2010. The Minutes of the October 13, 2010 Regular Session were reviewed. Councilmember Lynch noted that, on page 2, paragraph 4, the sentence beginning "I was also..." should read "It was also..." and in paragraph 5 the word "prohibited" should read "prohibitive". Councilmember Burrell moved to approve the Minutes as corrected and approval was unanimous.

Council Vice-President Brittingham asked for a motion regarding the Application for a Special Sunday Permit for Boggs Disharoon American Legion Post 123 for Sunday, November 28, 2010. Councilmember Burrell moved to approve the request and approval was unanimous.

The Special Event Request for Services for Holiday Arts Night Tree Lighting scheduled for November 26 was reviewed. Following brief discussion, Councilmember Lynch moved to approve the request and approval was unanimous.

Council Vice-President Brittingham introduced Proclamation 2010-17 recognizing November as *Municipal Government Works Month*. Following brief discussion, Councilmember Hall moved to approve the Proclamation and approval was unanimous.

Council Vice-President Brittingham introduced Ordinance 2010-11 amending §107-34, District Regulations R-1 Residence District and noted that the Public Hearing would be held on November 8, 2010. Mr. Ward explained that the Planning Commission was recommending this amendment. Mr. Gaskill read the Ordinance in its entirety. Councilmember Lynch asked that the terms identifying the housing types be defined. Councilmember Hall asked Mr. Ward if a "lighting plan" could be identified. Discussion of conditional uses followed.

Council Vice-President Brittingham asked for a motion to approve the declaration of certain firearms as surplus. Chief Downing explained the process of disposal of the handguns and requested that the \$3,500.00 expected to be gained from the disposal be allocated back to the Police Department for use towards weapons and associated training/certifications. Councilmember Burrell moved to approve the declaration of surplus and to approve allocation of the funds as requested. Councilmember Lynch asked how such a reallocation would work and Ms. Musgrave indicated that the funds would be recognized as restricted income. Council Vice-President Brittingham called Councilmember Burrell's motion and approval was unanimous.

Council Vice-President Brittingham asked for Department Reports. Finance Director Lynn Musgrave spoke regarding the progress in implementing the new finance software. She apologized for not having had financial reports to provide to the Mayor and Council, and indicated that once the new software was fully integrated she would provide updated information. Brief discussion of the utility bills followed.

Deputy Town Administrator Mary Bohlen noted that there were currently a number of Energy Efficiency Kits available at Town Hall for customers. She also indicated that the new webpage was live on the internet. She noted that "tweaking" was ongoing and encouraged site visitors to provide feedback.

Director of Water Resources Jane Kreiter noted that the Spray Site Lagoon project was fundamentally complete; site clean-up was in progress. She also noted that the Wastewater Treatment Plant was also nearing completion and that training on new equipment would begin shortly. She also indicated that fire hydrants would be relocated in preparation of sidewalk work scheduled to begin on Flower Street. Brief discussion of time and money savings on both the Lagoon and Wastewater Treatment Plant followed.

Electric Utility Director Tim Lawrence provided an update on the battery replacement project at the Electric substation and indicated that maintenance work would be performed at the Power Plant substation during the winter months.

Police Chief Arnold Downing indicated that preparations and planning for the upcoming Halloween weekend were underway. He also discussed the recent accident at PNC bank and thanked the Town departments who had provided assistance during the event. Chief Downing also addressed the recent inquiries regarding the "speed boards" and reviewed the quotes received. Following discussion, he presented P.O. #57484 to All Traffic Solutions in the amount of \$1,560.00 for the first year of a three year commitment. Councilmember Lynch moved to approve the purchase and approval was unanimous.

Planning & Zoning Director Chuck Ward also addressed the recent accident at PNC Bank, briefly describing the extent of the structural damage to the building. He indicated that the Historic District Commission and Board of Zoning Appeals would be holding their regular meetings the following Wednesday, November 3, 2010. The Planning Department continues to work on ensuring that existing permits are kept up-to-date and will be working on reviewing the Zoning Code. Councilmember Brittingham inquired about the rate of issuance of building permits and Mr. Ward indicated that it was slightly up.

Economic and Community Development Director Michael Day indicated that he and Public Works Director Mike Gibbons would be picking up six donated tennis nets the following day and reminded those in attendance about the "Dollars and Sense" workshops scheduled through the University of Maryland Extension Office. He also announced the award of Community Legacy funds for Town projects and reviewed his schedule for the upcoming week.

Town Administrator Tony Carson spoke briefly regarding the increase in building permits. Mr. Carson then presented 13 Purchase Orders for approval. Brief discussion of the new format of POs followed. Councilmember Lynch noted that the invoice attached with PO #57455 included a balance forward of \$100.00; the PO amount was amended to \$2,164.24. Councilmember Burrell moved to approve the P.O.'s as amended and approval was unanimous.

Council Vice-President Brittingham asked the Council for any questions or comments. Councilmember Lynch noted a pothole on Broad Street and indicated that the hole on Tripoli Street which had been filled with gravel was increasing in size. Water and Wastewater Director Jane Kreiter indicated that the area on Broad Street was over an abandoned manhole and that State Highway was aware of the problem and that the PO to Terra Firma presented earlier in the meeting included the Tripoli Street work.

Hearing no further questions or comments from the Council, Council Vice-President Brittingham asked for questions from the public and press. Hearing none, he requested a motion to adjourn. Councilmember Burrell moved to adjourn and the Meeting was adjourned at 8:12 PM.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Mary T. Bohlen". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Mary T. Bohlen
Deputy Town Administrator

ORDINANCE 2010-11

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, A MARYLAND MUNICIPAL CORPORATION, AMENDING § 107-34, DISTRICT REGULATIONS R-1 RESIDENCE DISTRICT.

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

- B. Conditional uses requiring Board authorization in accordance with §§ 107-69 and 107-70 of this chapter and site plan review pursuant to §107-61:
 - (6) **Nursing facility, hospice facility or other institution for human care provided that the property upon which such use is proposed exceeds 5 acres in size. In addition to the review parameters established in §§ 107-61, 107-69 and 107-70, application for such uses shall include an exterior lighting plan to ensure minimal adverse impact on neighboring properties.**

Adopted and effective this _____ day of _____, 2010 by the Council of the Town of Berlin, Maryland, by affirmative vote of _____ to _____ opposed, with _____ abstaining.

Elroy Brittingham, Sr. Vice-President

Approved and effective this _____ day of _____, 2010 by the Mayor of the Town of Berlin, Maryland.

Wm. Gee Williams III, Mayor

ATTEST:

Anthony Carson, Jr. Town Administrator

ORDINANCE 2010-12

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, A MARYLAND MUNICIPAL CORPORATION, AMENDING §107-5, DEFINITIONS.

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

Nursing or Hospice Facility - A facility, licensed by the State, to provide basic or skilled nursing care for physical, emotional, or mental diseases or disabilities to three (3) or more individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves. This term shall not include hospitals or facilities for the primary treatment of sickness or injuries or for surgical care.

Adopted and effective this _____ day of _____, 2010 by the Council of the Town of Berlin, Maryland, by affirmative vote of _____ to _____ opposed, with _____ abstaining.

Elroy Brittingham, Sr. Vice-President

Approved and effective this _____ day of _____, 2010 by the Mayor of the Town of Berlin, Maryland.

Wm. Gee Williams III, Mayor

ATTEST:

Anthony Carson, Jr. Town Administrator

ORDINANCE NO. 2010- 13

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, MARYLAND A MD. MUNICIPAL CORPORATION, EXEMPTING THE TOWN FROM THE REQUIREMENTS OF SECTION R313.2 OF THE INTERNATIONAL RESIDENTIAL CODE WHICH MANDATES THE INSTALLATION OF AUTOMATIC RESIDENTIAL FIRE SPRINKLER SYSTEMS IN ALL NEW ONE AND TWO FAMILY DWELLINGS EFFECTIVE JANUARY 1, 2011.

WHEREAS, the Town has adopted the International Residential Code in Chapter 37, Section 37-3(B) of the Town Code; and

WHEREAS, the Maryland Department of Housing and Community Development has adopted the International Residential Code as part of its Maryland Building Performance Standards at COMAR 05.02.07.01 et seq.; and

WHEREAS all local governments are required to implement the Maryland Building Performance Standards unless modified by COMAR 05.02.07.05 due to conditions peculiar to a local jurisdiction's community; and

WHEREAS, effective January 1, 2011, Section R313.2 of the International Residential Code will require the installation of automatic residential fire sprinkler systems in all new one and two family dwellings; and

WHEREAS, the Mayor and Council of the Town of Berlin desire to exempt the Town from Compliance with Section R313.2 of the International Residential Code as conditions exist which are peculiar to the Town and its residents than from other residents in Worcester County, in that the Berlin Fire Company is centrally located within the Town so as to provide more than adequate fire protection to Town residents, and Town residents are not afforded a tax differential from Worcester County, thereby subjecting Town residents to enhanced taxation and further economic hardship if the Town is not exempt from R313.2.

NOW THEREFORE, BE IT ENACTED BY THE MAYOR AND COUNCIL that Chapter 37, Section 37-5 be amended as follows:

§ 37-5. International Residential Code amendments.

The following additions and deletions are made to the International Residential Code (2000):

- A. Delete Chapter 1, Administration, adopted through IBC, IPMC and Berlin Town Code.
- B. Delete Chapters 12 and 20 and replace with the State of Maryland Mechanical Code.
- C. Delete Chapters 19, 21, and 23 through 32 and replace with the State of Maryland Plumbing Code.
- D. Delete Chapters 33 through 40 and 42 and replace with the National Electric Code.

- E. Adopt Appendix G in its entirety.
- F. Add an exception to Section 303.4.1, Light activation, and amend to read:

The control for activation of the required interior stairway lighting shall be accessible at the top and bottom of each stairway without traversing any steps. The illumination of the exterior stairway shall be controlled from inside the dwelling unit.

Exceptions:

- 1. Lights that are continuously illuminated or automatically controlled.
 - 2. Interior stairways consisting of fewer than six steps.
- G. Delete the Exception 1 of Section 312.1.2 and amend to read:

312.1.2 Landings and doors: There shall be a floor or landing on each side of exterior door.

Exceptions:

- 1. If a stairway of three or fewer risers is located on the exterior side of a door, other than the required main exit door, a landing is not required for the exterior side of the door.
- H. Delete the first sentence in Section 314.2, Treads and risers, and amend to read:

The maximum riser height shall be eight inches, and the minimum tread depth shall be 10 inches. The riser height shall be measured vertically between leading edges of the adjacent treads. The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The walking surface of treads and landings of a stairway shall be sloped no steeper than one unit vertical in 48 units horizontal (two-percent slope). The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch.

- I. Delete Section 315.1, Handrails, and amend to read:

Handrails shall be provided on at least one side of stairways consisting of three or more risers. Handrails shall have a minimum height of 34 inches and a maximum height of 38 inches measured vertically from the nosing of the treads. All required handrails shall be continuous the full length of the stairs from a point directly above

the top riser to a point directly above the lowest riser of the stairway. The ends of the handrail shall be returned into a wall or shall terminate in newel posts. A minimum clear space of 1 1/2 inches shall be provided between the wall and the handrail.

Exception:

1. Handrails may be permitted to be interrupted by a newel post at a turn.

J. DELETE SECTION R313.2, WHICH REQUIRES AUTOMATIC RESIDENTIAL FIRE SPRINKLER SYSTEMS TO BE INSTALLED IN ONE AND TWO FAMILY DWELLINGS, IN ITS ENTIRETY DUE TO THE FACT THAT THE BERLIN FIRE COMPANY IS CENTRALLY LOCATED WITHIN THE TOWN SO AS TO PROVIDE MORE THAN ADEQUATE FIRE PROTECTION AND TOWN CITIZENS ARE NOT AFFORDED A TAX DIFFERENTIAL FROM WORCESTER COUNTY, THEREBY SUBJECTING TOWN CITIZENS TO ENHANCED TAXATION AND GREATER ECONOMIC HARDSHIP THAN OTHER COUNTY RESIDENTS.

Adopted and effective this _____ day of _____, 2010 by the Mayor and Council of the Town of Berlin, Maryland, by affirmative vote of _____ to _____ opposed, with _____ abstaining.

Elroy Brittingham, Vice-President

Approved and effective this _____ day of _____, 2010 by the Mayor of the Town of Berlin.

Wm. Gee Williams, Mayor

ATTEST: Anthony Carson, Town Administrator

RESOLUTION 2010- 16

RESOLUTION OF THE TOWN OF BERLIN, MARYLAND APPROVING THE RECEIPT AND RE-GRANT OF SIX MILLION AND 00/100 DOLLARS (\$6,000,000.00) IN FEDERAL FUNDING FROM THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (THE "DEPARTMENT"). THIS FUNDING IS MADE AVAILABLE TO THE DEPARTMENT BY THE FEDERAL DEPARTMENT OF ENERGY (DOE) UNDER THE ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM (EECBG). DOE'S AUTHORIZATION FOR THE EECBG PROGRAM IS SET FORTH IN TITLE V, SUBTITLE E OF THE ENERGY INDEPENDENCE AND SECURITY ACT (EISA) OF 2007, PUBLIC LAW 110-140. THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA OR "RECOVERY ACT"), PUBLIC LAW 111-5, APPROPRIATED \$3.2 BILLION IN FUNDING FOR DOE TO ISSUE/AWARD FORMULA-BASED AND COMPETITIVE GRANTS UNDER THE PROGRAM TO STATES, UNITS OF LOCAL GOVERNMENT, AND INDIAN TRIBES.

WHEREAS, as required by EISA (42 USC 17155(c)(1)(A)), a state that receives a grant under the EECBG program shall use not less than 60 percent of the amount received to provide subgrants to units of local government in the state that are not eligible for a formula grant under the program.

WHEREAS, the Department intends to assist ten Maryland communities that are not eligible for formula grants under the EECBG program. The Department intends to accomplish this by providing two subgrants, each in the amount of Six Million and 00/100 Dollars (\$6,000,000.00) (each, an "EECBG Grant"), to two formula-ineligible local government partners. Upon receipt of the EECBG Grant, the two local government partners will then allocate the EECBG Grant funds to a pooled loan fund administered by the Department on behalf of all ten formula ineligible communities. The EECBG Grants will be used to create revolving loan funds for affordable financing for energy efficiency retrofits and other energy efficiency incentives for single family homes, multifamily rental properties and small commercial properties, and will include green jobs training, employment opportunities, educational seminars and materials, training and outreach for the adoption of updated energy and building codes, and the development of a statewide bulk purchasing cooperative (the "Program").

WHEREAS, the grant/re-grant structure for the EECBG funding is necessary (i) in order to comply with the federal EISA statutory requirements; (ii) because the EECBG program's administrative and reporting requirements are extensive, and the management of the Program's credit enhancement and revolving loan funds necessitates centralized administration by the Department; and (iii) to ensure that the EECBG funds can be used in a manner that allows for maximum leverage and provides a scale where the funds can become part of a sustainable loans pool.

WHEREAS, the Town of Berlin is one of the ten formula-ineligible local governments, and recognizes that the successful implementation of the Program is contingent upon the Town's partnership with the Department in order to satisfy the EISA statute authorizing the EECBG funding.

WHEREAS, applicable local law and regulations require approval for the Town of Berlin to act as a formula-ineligible local government partner by receiving and re-granting the EECBG Grant to the Department to operate the Program as described herein;

NOW, THEREFORE BE IT RESOLVED THAT, the Town of Berlin hereby endorses the actions contemplated herein; and, HEREBY approves the receipt and re-grant to the Department of the EECBG Grant; and

BE IT FURTHER RESOLVED THAT, the chief elected executive official be, and is hereby requested to endorse this Resolution, thereby indicating his approval thereof; and,

BE IT FURTHER RESOLVED THAT, copies of this Resolution be sent to the Secretary of Housing and Community Development of the State of Maryland.

THE ABOVE RESOLUTION was introduced and duly passed at a meeting of the Town of Berlin, Maryland held on the ____ day of _____, 2010.

ATTEST:

Anthony J. Carson, Jr. MPA

Elroy Brittingham, Sr. - Vice President

William G. Williams, Mayor

TOWN ADMINISTRATOR'S REPORT

11-08-10

Purchase Orders

PO# 20110049 in the amount of \$2,790.00 to Atlantic Pumping for transportation of sludge to Hurlock.

PO# 20110093 in the amount of \$3,210.00 to Environmental Equipment for emergency repair of chemical feed pump.

PO# 20110117 in the amount of \$2,164.24 to The Daily Times for required advertising for three consecutive days of the "Notice of finding of no Significant Impact" for the Effluent and Irrigation System project.

PO# 20110113 in the amount of \$5,477.94 to Ocean City Law Office Holding Company for Façade grant matching funds. A total of \$10,955.89 was spent.

PO# 20110114 in the amount of \$2,000.00 to Main Street Arts and Entertainment for matching funds Worcester County Tourism and Berlin Merchants Marketing Seminar.

PO# 57325 in the amount of \$5,991.48 to Big Wireless for repairs to wireless camera system due to lightning strike.

Updates