# Mayor & Council of Berlin

10 William Street, Berlin, Maryland 21811
Phone 410-641-2770 Fax 410-641-2316
www.berlinmd.gov



**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, SEPTEMBER 26, 2011

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

EXECUTIVE SESSION .....NONE SCHEDULED

REGULAR SESSION .....7:00 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*
*TTY users outside Maryland dial 1-800-735-2258*

**BERLIN MAYOR AND COUNCIL**
**COUNCIL MEETING**
**AGENDA**
**Monday, September 26, 2011**

## NO EXECUTIVE SESSION SCHEDULED

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

1. Approval of the Minutes for:
   Regular Session of the Mayor and Council on September 12, 2011

2. Worcester Youth and Family – Youth Program Update

3. Presentation – Rota Knott – Women Supporting Women

4. American Legion – Sonny Adkins

5. Request for Letter of Support – The Globe
   Extension of license premise to public property for New Year's Eve Celebration

6. Appointments to Housing Board of Review

7. Award of Contract for Design and Contract Management to EA Engineering in an amount not to exceed $59,886.88 for Wellhouse on Branch Street

8. Washington Street Resurfacing Project (Options)
   a. Use approximately $35,000 of contingency funds to complete project in FY12
   b. Rebid program in phases
   c. Postpone project for FY12

9. Motion to Approve – Update of Town Standard Preface

10. Public Hearing – Ordinance 2011-08
    An ordinance amending Chapter 36, Brush, Grass and Weeds

11. Introduction and 1st reading – Ordinance 2011-09
    An ordinance amending Chapter 80, Property Maintenance
    Public Hearing to be held October 11, 2011

12. Departmental Reports
    a. Finance – Lynn Musgrave
    b. Deputy Town Administrator – Mary Bohlen
    c. Public Works – Mike Gibbons
    d. Water Resources – Jane Kreiter
    e. Electric – Tim Lawrence
    f. Police – Arnold Downing
    g. Planning and Zoning – Chuck Ward

h. Human Resources – Jeff Fleetwood
i. Economic and Community Development – Michael Day

13. Town Administrator's Report

14 Comments from the Mayor

15. Comments from the Council

16. Comments from the Public

17. Comments from the Press

18. Adjournment

MAYOR AND COUNCIL OF BERLIN, MARYLAND
Regular Session Council Minutes
Monday, September 12, 2011

The meeting of the Mayor and Council for Monday, September 12, 2011 was called to order by Mayor Williams at approximately 7:08 p.m. Council members Lynch, Purnell, Hall, and Brittingham were present, as well as Town Administrator Tony Carson, Electric Utility Director Tim Lawrence, Administrative Assistant Sharon Timmons, Human Resources Director Jeff Fleetwood, Finance Director Lynn Musgrave, Public Works Director Mike Gibbons, Deputy Town Administrator Mary Bohlen, Town Attorney David Gaskill, Planning and Zoning Director Chuck Ward, Water Resources Director Jane Kreiter, Economic and Community Development Director Michael Day. Police Chief Arnold Downing arrived late. Councilmember Burrell was absent.

Following the recitation of the Lord's Prayer and the Pledge of Allegiance, Mayor Williams asked for a motion to approve the Regular Session Minutes of August 22, 2011. Councilmember Lynch made a motion to approve the minutes and the council voted to approve 4-0 with Councilmember Burrell absent. Mayor Williams asked for approval of the Worksession Minutes of August 29, 2011. Vice President Brittingham made a motion to approve and council voted to approve 4-0 with Councilmember Burrell absent.

Olive Mawyer from the Chamber of Commerce came before the council to request approval for the event known as Fall Cruisers to be held on October 8, 2011 from 10:00 a.m. to 2:00 p.m. Vice President Brittingham made a motion to approve the event and council voted to approve 4-0 with Councilmember Burrell absent.

Mayor Williams announced the Public Hearing for Ordinance 2011 -06, amending Chapter 39, Business Licenses. David Gaskill stated that the Ordinance would require persons or businesses which rent housing units to obtain licenses from the town which would reinforce keeping rental properties up to code. Mayor Williams opened the Public Hearing and asked for comments from anyone from the State or County. There being no comments, Mayor Williams asked for comments from the public. Ms. Carol Jacobs of 307 Bay Street approached the council and stated that though she supports the concept, she feels that the ordinance is an over-reaction to a few problem properties. She continued by inquiring how inspections were warranted and the Mayor stated by visual appearance from the outside would be the most determining factor. Ms. Jacobs then asked what protects the rights of the tenants. Planning and Zoning Director Chuck Ward stated that Section E-1 protects the landlord by stating that the inspection may take place "if there is evidence of non-compliance". This language would disallow a staff person from acting without just cause. Ms. Jacobs suggested that a clause be added to the ordinance stating "inspection may be scheduled at any reasonable hour". Councilmember Hall made a motion to amend Ordinance 2011-06 by adding the language "inspections may be scheduled at any reasonable hour" at the end of Paragraph E, #1.
Mrs. Suzanne Parks of 7 Baker Street inquired if the town would know if residents were renting rooms and if so, would they be required to obtain a license. Town Attorney Gaskill stated that under the definition of rental housing, those persons renting rooms in their homes would be required to obtain a rental license. Councilmember Hall inquired if a license is revoked, what would happen to the tenants. Mr. Ward stated that only the unit in non-compliance would have to be vacated. Police Chief Arnold Downing arrived at 7:32 p.m. Mayor Williams closed the Public Hearing. Councilmember Purnell made a motion to adopt Ordinance 2011-06 with the addition of language "Inspections may be scheduled at a reasonable hour" to Section E, #1. Council voted to approve the motion 4-0 with Councilmember Burrell absent.

Mayor Williams asked for a motion to approve the application for rental license. Councilmember Brittingham made a motion to approve and council voted to approve 4-0 with Councilmember Burrell absent.

Mayor Williams announced the Public Hearing for Ordinance 2011-07, Vehicles. The ordinance adds the word "inoperable" to the language. Mayor Williams opened the Public Hearing and asked for comments from anyone from the State or County. There being no comments, Mayor Williams asked for comments from the public. There being no comments, Mayor Williams closed the public hearing. Councilmember Lynch inquired what the consequence would be in being declared a nuisance. Mr. Ward stated that it would allow the town to enter the property and have the vehicle towed after 15 days notice. Councilmember Hall made a motion to approve Ordinance 2011-7 and council voted to approve 4-0 with Councilmember Burrell absent.

Ordinance 2011-08, an ordinance amending Chapter 36, Brush, Grass and Weeds was introduced. Town Attorney Gaskill read the ordinance in its entirety. Mayor Williams summarized the changes. The Public Hearing will be held on September 26th.

Ordinance 2011-09, an ordinance amending Chapter 80, Property Maintenance was introduced. Town Attorney David Gaskill read the ordinance in its entirety. Councilmember Lynch suggested that a field trip be organized to look at some of the properties since the ordinance had been revised to include residential properties only. Mayor Williams asked for the disadvantages of applying the ordinances to all buildings rather than residential. Mr. Ward explained the reasoning for the boarding of the sides and/or backs of many of the historic buildings for decades. Town Administrator Carson stated that the Town could exempt all of the buildings in the downtown area within the Historic Overlay district in the B-1 zoning district. Mayor Williams asked Mr. Ward to re-draft the ordinance for another 1st reading at the September 26th meeting. Mr. Ward also stated that the ordinance would need to state that the buildings in the B-1 Historic district could only be boarded on the sides and/or rear of the structure. Mayor Williams asked to have maps available at the next meeting to show the affected areas.

Town Administrator Tony Carson explained the motion to approve PJM Risk Management Policy which allows Mr. Carson to sign and submit the annual officer's certification. Councilmember Purnell made a motion to approve the policy and council voted to approve 4-0 with Councilmember Burrell absent.

Departmental reports began with Finance Director Lynn Musgrave reporting that the audit had begun and there were no problems thus far.

Deputy Town Administrator Mary Bohlen reported that the webpage was now available in mobile format for smart phones and that the Parks Commission was working on getting their portion of the webpage.

Public Works Director Mike Gibbons reported that sidewalk construction would be starting on West Branch and Cedar Avenue on Wednesday. Work on Washington Street would begin this fall.

Water Resources Director Jane Kreiter reported that bids for the final phase of the Wastewater Upgrade Project which includes the Effluent Lagoon and Spray fields, pump house and maintenance building would be advertised this week. Ms. Kreiter stated that the contract was for 18 months and the estimated start time was January 2012 which would begin with the construction of the lagoon.

Electric Utility Director Tim Lawrence reported that all peak generation times had been completed and that transformers and Victorian streetlights had been ordered for the Cottages at Berlin project.

Police Chief Arnold Downing reported that he would be attending the Maryland Chief and Sheriff's Conference this week. He reported that traffic issues at Route 50 and Seahawk Road were being worked out and they were preparing for Bike Week.

Planning and Zoning Director Chuck Ward reported that his office since January 1st had issued 123 building permits, 106 code violations, 80 courtesy calls to properties, 720 walk-ins from the public for assistance and 1800 calls or emails had been answered regarding information. He also stated that the Planning Commission meeting for September 14th had been cancelled.

Human Resources Director Jeff Fleetwood reported he had completed all necessary paperwork with Worcester County, FEMA and David Fitzgerald concerning reimbursements from Hurricane Irene and he was expecting a visit from a representative from FEMA next week.

Economic and Community Development Director Michael Day reported that council would be receiving a copy of the new brochure, new businesses would be occupying 11South Main & 13 South Main Street and that the State had approved the façade grants for 3 buildings. Mr. Day also reported that the merchants had been expressing their delight with the cleanliness of the streets and the new curb painting done by Public Works.

Town Administrator Tony Carson requested approval of 11 purchase orders (201200624, 201200305, 201200299, 201200685, 201200689, 201200701, 201200485, 201200611, 201200721, 201200722 and 201200753). Councilmember Brittingham made a motion to approve all 11 purchase orders and council voted to approve 4-0 with Councilmember Burrell absent.

Mayor Williams announced that the Town would be holding 4 separate meetings on stormwater issues. These meetings would be held by districts and would take place as follows: District 1 – October 5th, District 2 – October 18th, District 3 – November 10th, and District 4 – November 15th from 6:00 p.m. to 7:30 p.m. Notices will be sent to each resident one week before the meeting. Residents are encouraged to submit photos of problem areas.

Mayor Williams asked for questions from the council. Councilmember Hall expressed her thoughts on the passing of Ed Hammond and how instrumental he was in the revitalization of the Town. She suggested the Town memorialize him in a permanent way. Council agreed in consensus and Mayor Williams stated that he and Michael Day would explore the possibilities. Councilmember Purnell spoke of the new "Do not Enter" sign on Harrison Avenue and asked Mike Gibbons if it would be possible to paint a white line showing the direction for traffic to follow.

Mayor Williams asked for comments from the public. There being no questions, Mayor Williams asked for questions from the press. Councilmember Hall made a motion to adjourn and the meeting ended at 8:34 p.m.

Respectfully submitted,

Sharon Timmons

Sharon Timmons
Administrative Assistant

ORDINANCE 2011-08

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, A MARYLAND MUNICIPAL CORPORATION, AMENDING CHAPTER 36, BRUSH, GRASS AND WEEDS,

WHEREAS, the Mayor and Council have determined that it is in the best interest of the Town to ensure customary lawn maintenance on all properties within the Town of Berlin, and

WHEREAS, the Mayor and Council find that the Town should be able to expedite the process of abating nuisances on properties upon which lawn maintenance standards are not upheld,

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the Town of Berlin that Chapter 36 be amended as follows:

§ 36-1. Cutting and Removal Required.

It shall be unlawful for any owner of real property located within the corporate limits of the Town of Berlin to allow any growth of grass or weeds to a height of ~~10~~ **six (6)** inches or more. Any owner of real property located within the Town of Berlin shall be responsible for the cutting, destruction or removal of the grass or weeds.

§ 36-2. Maintenance of sidewalks, curbs and gutters. [Amended 6-8-2009 by Ord. No. 2009-08]

All owners of real property located within the corporate limits of the Town of Berlin shall maintain their respective sidewalks, curbs and gutters bordering their property in such condition as to be clear of all growth of grass and weeds within the curbs, gutters and sidewalks. Additionally, all owners of real property located within the corporate limits of the Town of Berlin shall remove all grass clippings, weeds and brush from the sidewalks, curbs and gutters bordering their property.

§ 36-3. Notice to abate violation.

The Mayor and Council of Berlin is hereby authorized and empowered to give written notice to any owner of real property who has violated §§ 36-1 and 36-2 to correct the violation within ~~seven~~ **five (5) calendar** days from the date of such notice. The notice is effective if given by ~~certified mail~~ **first class mail** ~~return receipt requested,~~ addressed to the owner at the last known address as the same appears on the Town's tax records or personally delivered to the owner. In addition, the Mayor and Council of Berlin shall post the notice on the property for ~~seven~~ **five (5)** consecutive days from the date of the notice. The notice shall include therein the amount of costs to be assessed against the property owner in the event that it is necessary for the Mayor and Council of Berlin to correct the violation and shall advise the owner of the penalties set forth in §§ 36-4, 36-5 and 36-6.

§ 36-4. Violations and Penalties.

In the event that an owner of real property fails to comply with the notice to abate violation, the owner shall be guilty of a municipal infraction and shall be fined the sum of ~~$100.00 for the infraction~~ **$50.00 for an initial infraction and $100.00 for a second and subsequent infraction in any 12-month period.**

§ 36-5. Failure to comply; removal by Town.

In the event that an owner of real property fails to comply with the notice to abate violation, the Mayor and Council of Berlin shall have the power to correct the violation and assess the costs against the real property as a lien. **The Town shall have the authority to enter the property for the purpose of abating the nuisance and shall charge the property owner not less than $100.00 per man-hour for the abatement.**

§ 36-6. Payment of costs.

The costs of such work ordered by the Mayor and Council of Berlin pursuant to § 36-5, unless paid in full within 30 days after the same is billed, shall be a lien on the property and shall draw interest after said 30 days at the rate of 11/2% per month or fraction of a month, and the costs, if not paid within the current fiscal year, shall be added to the next annual real property tax bill of said owner. Pursuant to the authority contained in § C5-1B(34) of the Berlin Charter and Subsection (a)(17) of § 2 of Article 23A of the Annotated Code of Maryland, any such unpaid costs shall be collectible in the same manner as municipal real estate taxes are collected, and the provisions regarding tax sales contained in the Annotated Code of Maryland shall apply to said costs and the property may be sold for such unpaid costs at a tax sale.

THIS ORDINANCE was introduced and read at a meeting of the Town Council held on the _____ day of _____, 2011, and thereafter a statement of the substance of the Ordinance having been published as required by law was finally passed by the Town Council on the _____ day of _____, 2011.

Adopted and effective this _____ day of _____, 2011 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 _____, 2011 by the Mayor of the Town of Berlin.

_____
Wm. Gee Williams III, Mayor

_____
ATTEST: Anthony J. Carson, Jr., Town Administrator

**ORDINANCE 2011-09**

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, A MARYLAND MUNICIPAL CORPORATION, AMENDING CHAPTER 80, PROPERTY MAINTENANCE.

***WHEREAS*** The Mayor and Council of Berlin have determined that boarded properties are undesirable in the community, and

***WHEREAS*** The Mayor and Council have determined that boarded buildings are a cause of blight and may attract vagrants and criminal activity,

***NOW, THEREFORE, BE IT ORDAINED AND ENACTED***, by the Mayor and Council of the Town of Berlin that Chapter 80 be amended as follows:

**§ 80-3. Boarded Buildings.**

**A. Definition.**

BOARDED BUILDING – Any structure in which any door or window opening has been covered by plywood or other material with the intention of preventing entrance and/or damage to the property.

**B. Purpose.**

To protect the public health, safety, general welfare and to assist in maintaining a high standard of living for the residents of the Town.

**C. Applicability.**

It shall be unlawful for any building to be boarded within the corporate limits of the Town of Berlin.

**D. Exceptions.**

1. Pursuant to a Town-issued Building Permit, a property owner may board a window or door opening for a period not to exceed 30 days for the purpose of repair or replacement.
2. Within the Historic Overlay District of the B-1 Town Center District, a commercial structure may have boarded openings on the rear and/or sides of the structure. Other than as provided for in D-1 above, it shall be unlawful to board the front of any building.

**E. Violations and Enforcement.**

Any property in violation of this section, as determined by the Building Official, shall cause the owner of such property to be found guilty of a municipal infraction and fined the sum of $100.00 for any single initial violation and the sum of $200 for each repeat or continuing violation.

THIS ORDINANCE was introduced and read at a meeting of the Town Council held on the _____ day of _____, 2011, and thereafter a statement of the substance of the Ordinance having been published as required by law was finally passed by the Town Council on the _____ day of _____, 2011.

Adopted and effective this _____ day of _____, 2011 by the Mayor and 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 _____, 2011 by the Mayor of the Town of Berlin.

_____
Wm. Gee Williams, III, Mayor

_____
ATTEST: Anthony J. Carson, Jr., Town Administrator

# TOWN ADMINISTRATOR'S REPORT
## 9-26-11

**Purchase Orders**

PO# 201200756 in the amount of $1,755.00 to Southeastern Transformer for (3) 25 KVA transformers.

PO# 2012000604 in the amount of $1,665.00 to Godwin Pumps for pump for bypassing.

PO# 201200562 in the amount of $1,368.06 to Red the Uniform Tailor for body armor for new hires.

PO# 201200851 in the amount of $14,162.00 to Harkins Contracting for solar film installation, repair and replacement of doors and windows at Town Hall & Police department. To be reimbursed by EECBG Grant.

PO# 201200793 in the amount of $1,229.28 to Afro American Newspaper for advertising for the Request for Bid for Spray Site Addition.

PO# 201200861 in the amount of $1,462.00 to Wesco for fuses for substation.

PO# 201200893 in the amount of $6,082.18 to Lawmen Supply Company for 6 sets tactical armor.

**Updates**