



BERLIN MAYOR AND COUNCIL
Meeting Agenda

Berlin Town Hall
10 William Street
Monday, June 26, 2023

Please note that the times indicated below are approximate and that additional timing protocols may be indicated for specific agenda items.

7:00 PM CALL TO ORDER, REGULAR SESSION – Council Chambers

1. 7:05 PM CONSENT AGENDA:

- A) Approval of Minutes for:
 - 1. CORRECTED Regular Session of 5.22.23
(Original version tabled from Consent Agenda on 6.12.23 for corrections)
 - 2. Work Session of 6.12.23
 - 3. Regular Session of 6.12.23

2. 7:15 PM PRESENTATION(S):

- a) "If I Were Mayor" Essay Contest Winner – Joseph Eli Parker
- b) Horticultural Advisory Committee (HAC) Project Updates – HAC Committee
Member Andrea Weeg & Public Works Director Jimmy Charles

3. 7:35 PM ITEM(S) FOR DISCUSSION:

- a) On-site Cannabis Consumption – Town Attorney David Gaskill
Note: Draft Ordinance included for discussion purposes only; this is not a first reading.
- b) Sub-Committee Update regarding the Disposition of Parcels 57, 191, and 410 at
Heron Park – Mayor Zack Tyndall
 - i. Public Comment period to follow Council discussion using same guidelines as noted in
Agenda Item 7.

4. 8:20 PM FIRST READING: Ordinance 2023-05: Speed Cameras – Police Chief Arnold Downing &
Town Attorney David Gaskill
(Public Hearing to be held on Monday, July 10, 2023).

5. 8:25 PM ITEM(S) FOR APPROVAL:

- a) Motion 2023-21: FY24 Annual Contract Renewals – Town Administrator Mary Bohlen
- b) Motion 2023-22: Approval of RFP # 2023-09 & Letter of Intent to Allow Production to begin on
the Broad Street Lift Station Equipment – Water Resources Director Jamey Latchum & DBF
Engineer Josh Taylor
- c) Motion 2023-XX: Amendments to Employee Handbook Sections 4, 5 & 8 Review and
Approval – Human Resources Director Kelsey Jensen & Town Administrator Mary Bohlen

6. 8:45 PM REPORTS: Town Administrator's Report, Departmental Reports

7. 9:00 PM COMMENTS FROM THE PUBLIC

Any person who may wish to speak on a matter at the Regular Session may be heard during COMMENTS FROM THE PUBLIC for a period of five (5) minutes or such time as may be deemed appropriate by the Mayor. Anyone wishing to be heard shall state their name, street name, and subject on which they wish to speak.

- 8. 9:10 PM COMMENTS FROM THE COUNCIL**
- 9. 9:20PM COMMENTS FROM THE MAYOR**
- 10. 9:25 PM COMMENTS FROM THE PRESS**
- 11. 9:30 PM ADJOURNMENT**

To access the Meeting via Facebook, please click the blue Facebook icon at the top of any page on www.berlinmd.gov, or type @townofberlinmd in the Facebook search bar.

QR code links to online packet. Anyone having questions about the meetings mentioned above or needing special accommodations should contact Town Administrator Mary Bohlen at (410) 641-2770. Written materials in alternate formats





BERLIN MAYOR AND COUNCIL

Meeting Minutes

Monday, May 22, 2023

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

Present: Mayor Zackery Tyndall, Vice President Dean Burrell, Councilmembers Steve Green, Jay Knerr, Jack Orris, and Shaneka Nichols.

Staff Present: Town Administrator Mary Bohlen, Economic and Community Development Director Ivy Wells, Finance Director Natalie Saleh, Electric Utility Director Tim Lawrence, Police Chief Arnold Downing, Public Works Director Jimmy Charles, Town Attorney David Gaskill, Human Resources Director Kelsey Jensen, Administrative Assistant Kate Daub, and Executive Administrative Assistant Sara Gorfinkel.

Staff Absent: Water Resources Director Jamey Latchum and Planning Director David Englehart.

This meeting was also broadcast live via Facebook. Following a moment of silence and the Pledge of Allegiance, Mayor Tyndall called the meeting to order at approximately 7:15 PM.

1. Consent Agenda:

Councilmember Orris noted a grammatical error in the first paragraph on page three of the meeting minutes from May 8, 2023; he said the word “when” should be written as “were.”

A) Approval of Minutes for:

1. Regular Session Minutes of 5.08.23

On the motion of Councilmember Orris, second by Councilmember Nichols, the Consent Agenda with corrections was approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Dean Burrell, VP	X				
Steve Green	X				
Jack Orris	X				
Shaneka Nichols	X				
Jay Knerr	X				
<i>Voting Tally</i>	5				

2. Proclamation: 2023-05 June 19th through June 25th, 2023, as National Pollinator Week

Mayor Tyndall proclaimed the week of June 19th through June 25th, 2023, as National Pollinator Week. He introduced Berlin Bee City Committee members Ms. Helen Wiley and Ms. Kate Patton, who accepted the proclamation on the group’s behalf. Ms. Wiley said in partnership with the Lower Shore Land Trust and the help of Ms. Patton, along with the Church Mouse of St. Paul’s Episcopal Church, the Berlin Bee City committee will be able to plant native Maryland pollinator plants in the rear of the Church; she continued by saying the ribbon cutting for the new pollinator garden will be held on Friday, June 2, 2023, at 9:30 AM. Ms. Patton thanked Ms. Wiley for her advocacy of pollinators and native plants, adding she has done a great job educating the community about their importance.

3. Presentation: Skatepark Location Study Finding

We Heart Berlin’s Creative Director, Mr. Tony Weeg, and President Jeff Smith were present at the meeting to review the Skatepark Location Study Findings. Mr. Weeg offered to answer any questions the Council

had regarding the study. Mayor Tyndall asked if a community survey had been done or taken into consideration in the report; Mr. Weeg answered that a survey had not been done.

Mr. Weeg continued by saying Spohn Ranch, the skatepark design and construction firm hired to perform the study, engaged in the study from different perspectives; he said various factors were considered as part of the criteria used in their evaluation. Based on the findings, he said it was determined that a Neighborhood Skate Park would best fit the Town; he stated this type of park typically ranges from five thousand to fifteen thousand square feet in size. Mr. Weeg said Henry Park, Stephen Decatur Park, and Heron Park were considered as part of the site review, adding that Stephen Decatur Park scored the highest based on the criteria. He acknowledged that Henry Park was a close second, however, he said the location lacks certain features such as ample parking.

Mr. Weeg referred to page thirty-five of the meeting packet which included drawings that outlined two sections of the proposed skatepark design at Stephen Decatur Park; he clarified that the sections would be located on either side of the nature walking trail near the parking lot. However, Mr. Weeg confirmed the left side is no longer being considered in the plan, as the right side can accommodate a fourteen thousand square-foot design in the space. Mr. Weeg said the location will not impact the existing trail or nature pond at the park. He reminded the Mayor and Council that the skatepark project has been underway for almost a decade and believes it is time to come together as a Town to determine the park's location in hopes of continuing with fundraising.

Councilmember Knerr said he spoke with several residents that support the addition of a skatepark but shared they are concerned with the proposed location at Stephen Decatur Park; he continued by saying the residents feel it will eliminate the parking lot used for overflow during Town events. Councilmember Knerr suggested that the southeast quadrant of the park be considered as an alternative. Mr. Weeg said there is already infrastructure in place at the location for the disc golf course; he added that resident Diane Frederick specifically requested the skate park not be placed on that corner. Because of this, Mr. Weeg said the corner location was not considered further. Councilmember Knerr made Mr. Weeg aware that he may hear of concerns from other residents regarding the proposed site.

Mayor Tyndall asked if the report had been presented to the Parks Commission; Mr. Weeg answered the Parks Commission had been involved in the early processes and consulted on other phases of the project, adding he was under the impression the Mayor and Council would be the body to determine the site location once the report was finalized. Mayor Tyndall said the Council values feedback received from the Boards and Commissions; Mr. Weeg said he is uncertain as to what the Parks Commission would do differently than the professionals hired to perform the location feasibility study. Vice President Burrell stated things need to be done in order and feels they should not be commenting on the report until the protocol is followed. Mayor Tyndall added that the Parks Commission would produce a recommendation based on their review of the study and the Mayor and Council would take their recommendation into consideration before moving forward with a decision.

Following several requests made by members of the public to comment on the discussion, Mayor Tyndall provided a reminder of the meeting format. He said that public comments are accepted during agenda item eight and emphasized that everyone will get an opportunity to speak at that time.

Councilmember Green asked if a comparison can be made to help provide a visual reference for the size of the park being proposed; he said he believes the fourteen thousand square foot park is larger than Salisbury's skate park and the same size as the park in Ocean City. Mr. Weeg confirmed the comparison was correct. Councilmember Green said he believes the study is great and thanked the We Heart Berlin group for funding it. He said he is interested to hear what the Parks Commission has to say and hopes that

the discussion remains focused on the possibility of moving forward with Stephen Decatur Park as the site location versus following it up with different locations that may be available in the community. Mayor Tyndall acknowledged Councilmember Green's comments; however, he stated the Council does not set the Parks Commission agenda. In response, Councilmember Green said he feels the Skatepark Presentation was procedurally handled incorrectly; he said the recommendation to present the findings of the location study to the Parks Commission should have been made prior to the Regular Session meeting. He said he feels like they wasted people's time.

Mr. Weeg respectfully asked what can be expected to come out of the Parks Commission meeting that may be different from the recommendations proposed in the report; Mayor Tyndall said each Board and Commission has an obligation to produce a recommendation to the Mayor and Council. Vice President Burrell shared that he feels the skatepark would be a wonderful addition to the Town, but he added that the project needs to be considered just as all other endeavors have been considered related to the parks.

Mr. Jeff Smith shared their group is working hard to get the project moving but he stressed that they cannot fundraise until a location has been determined. He continued by saying their frustration is simply that they have gone before the Parks Commission and the Commission told them to propose a location; he said that is what they are trying to do.

Councilmember Orris asked Mayor Tyndall what the approval process is for items on the Mayor and Council meeting agendas. After brief discussion, Mayor Tyndall confirmed final approval is the Mayor's after consultation with staff. Councilmember Nichols suggested that the members of the Parks Commission and We Heart Berlin that were present at the meeting leave the room to discuss the study further; she said that any follow-up comments could then be made during the Public Comments portion of the meeting agenda.

4. First Reading: Ordinance 2023-04: Amending Chapter 8, Article II Entitled Business Licenses
Mayor Tyndall noted that a Public Hearing on the ordinance will be held on Monday, June 12th, 2023, in the Town Hall Council Chambers at 7:00 PM.

Town Attorney David Gaskill reviewed the proposed revisions to the ordinance; he said a change has been made to the definition of business or business establishment. He explained the amended definition would include any retail, service, rental, or professional business entity operating within or providing services within the Town regardless of whether said business or business establishment is physically located within the corporate limits of the Town. Mr. Gaskill noted an additional change involved striking the definition of vendor, which he clarified was listed as a business that is not physically located in the Town but did business in the Town. He continued by saying the Vendors Exception reference has been changed to require any business that provides services in the Town to get a business license no matter the business's physical location.

Following a review of the revisions, Councilmember Green highlighted that the current Rental License fee is \$10 according to the Town website. He said this seems very low and asked that the Council consider an increase; he continued by suggesting a new fee of \$100. Ms. Bohlen said a new motion would have to be drafted to formally propose this change. Mayor Tyndall agreed there is income potential that could be generated from the number of licenses issued in Town, adding that a change seems logical.

5. Discussion: Short-Term Rentals
Mayor Tyndall explained the Town received a request to provide an update on the number of short-term rentals that are licensed within the town, in addition to what the rental approval process looks like and what enforcement mechanisms may be available. Planning Director David Engelhart said the Town has

received a total of twelve applications since the Short-Term Rental Ordinance was passed in October of 2022. Of the twelve, he said six licenses have been granted.

He acknowledged there is one property owner in Town that is causing a problem. He added that the property owner was sent a letter on March 13, 2023, along with the other owners that were not granted a license given that the residences listed on the applications were not the applicant's primary residence. Mr. Engelhart continued by saying as new applications are received, his department verifies whether it is the owner's primary residence and coordinates an inspection of the property to determine its safety. He added that they will also follow up to ensure any licenses issued are posted in the property's rental listing. Mr. Engelhart acknowledged they will try to issue denials quicker and enforce fines to property owners that operate without a license; he confirmed the daily fine is \$600.

He disputed the notion there is a lack of cooperation and communication with the Police Department. He confirmed that any violations received during non-office hours are reported by the Police, however, he added that they have not written a citation for any of the six rentals currently in operation. Mr. Engelhart said the one property causing problems is not licensed and is subject to the \$600 daily fine as per the ordinance.

Chief Downing acknowledged that the Police Department cannot enforce a violation on the guests renting a property and confirmed the violation must go against the owner. He reiterated that the Police Department is not the Short-Term Rental police and can only enforce violations of the law. Mr. Gaskill added that the ordinance as written states any property operating without a license is subject to a fine of up to \$600 on a recurring basis. He said it is his opinion that this means per day and citations need to be issued.

Councilmember Knerr asked how the fine is determined; Mr. Engelhart said he looks at a property's reservations. He confirmed he has access to the reservations of the one property that has been causing a problem. Councilmember Knerr said there are several listings for Air Bnb rental properties that do not have licenses; he asked if a staff member is checking on these properties. Mr. Engelhart answered his department checked the property listings earlier in the Spring when they began to receive applications, however, he indicated that they will have to do it more regularly. Councilmember Knerr asked if the rental license fee is paid for at the time an application is submitted; Mr. Engelhart said the fee is not required to be paid upfront. Councilmember Knerr asked what the timeframe is for completing the application process and noted in some cases the process took months. Mr. Engelhart acknowledged it took longer than anticipated because there were several applications submitted at one time. He continued by saying he thinks the process could be completed in two weeks; however, he added it could stretch slightly longer. Councilmember Knerr asked if a property is allowed to operate as a Short-Term Rental before its application has been approved; Mr. Engelhart said no, but acknowledged the possibility some properties are.

Councilmember Nichols shared her frustration over the properties that continue to violate the Short-Term Rental Ordinance. She continued by saying the reason it is a topic on the meeting agenda is because of one property that has been reported; she added there are many others that fly under the radar. She reported there were properties being rented before the ordinance was enacted and said they continue to be rented despite violating the regulations put in place. Councilmember Nichols emphasized there is an ordinance in place for a reason and said she wants to be sure there is a solid process that can be enforced in a timely manner for those that do not abide by the rules.

Councilmember Orris said he believes a larger problem stems from a lack of enforcement; he said it is unreasonable to assume that only two staff members can continue to enforce everything in Town, in

addition to the Short-Term Rentals and any other potential growth opportunities. He restated his request to add a Code Enforcement officer position to the Planning and Zoning Department. Mr. Engelhart said he feels any new position would best be served if the person is cross-trained for enforcement, administrative duties, permits, and other various tasks needed.

Councilmember Green asked how the Police would log a call after a complaint was made to report a possible short-term rental property acting in violation of the ordinance; Chief Downing confirmed that all parties are put in the system to ensure they can see all calls made on a particular property.

Councilmember Green asked to confirm the direction that should be taken if they see a property being short-term rented that is not licensed; Mr. Engelhart said his office should be contracted. Chief Downing added that the Police Department should be called if a report is to be made after office hours or on the weekends; he admitted the process is cumbersome because of the way the ordinance is written. Mr. Engelhart provided clarification that the renters of any short-term rental cannot be asked to leave the property if it is determined the property is in violation of the ordinance.

Councilmember Nichols echoed Councilmember Orris's request for an additional staff member to help the Planning Department with enforcement. She said it aggravates her that properties in violation of the ordinance are flying under the radar and continue to make money off their property.

Councilmember Orris said they should have a sense as to when a short-term rental is happening because the owner should be sending information to the County for tax purposes. Mr. Engelhart admitted that a step could be taken to request a reservation list from the property managers at the beginning of each month to ensure the Town is aware of any renting taking place.

Discussion followed regarding the path forward when a short-term rental application is received. Councilmember Nichols acknowledged that a lot of time has collectively been spent on this issue over the years; she admitted that those who continue to violate the ordinance are deserving of the \$600 daily fine.

6. Item(s) For Approval

a) Motion 2023-14 Declare Surplus Property:

Chief Downing explained that his department is retiring its old service weapons; he confirmed the new weapons have been purchased and are currently in use.

On the motion of Councilmember Knerr, second by Councilmember Orris, Motion 2023-14: Declare Surplus Property was approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Dean Burrell, VP	X				
Steve Green	X				
Jack Orris	X				
Shaneka Nichols	X				
Jay Knerr	X				
<i>Voting Tally</i>	5				

7. Reports: Town Administrator's Report, Departmental Reports

Ms. Bohlen provided a reminder that most town offices will be closed Monday, May 29, 2023, in observance of Memorial Day and said she will be out of the office on Friday, May 26, 2023.

Chief Downing said the Police Department has installed a downtown security camera which can be viewed online. He acknowledged that the department does not have resources available to enforce everything,

and the camera system will help serve as an enforcement multiplier. Chief Downing confirmed there are ten cameras available for review, adding the camera on South Main Street will have the capability to read license plates. He said the camera system was grant funded and included a three-year maintenance agreement; he clarified no taxpayer dollars will be needed to support the cameras for three years.

He continued by saying the department continues to look into speed cameras and the various locations to which cameras can be placed. Chief Downing reported that over forty percent of the people caught speeding are drivers that live on streets where cameras are placed. He said he hopes to continue speaking with vendors and provide another update on the project soon. Mayor Tyndall thanked the Department of Housing and Community Development for awarding the Police Department the Community Safety grant which helped to fund the downtown security cameras.

Human Resources Director Kelsey Jensen said she wanted to publicly thank the organizations that participated in the Open Enrollment period for Town staff. She encouraged people to participate in the blood drive being held at the Berlin Fire Department on Tuesday, May 23, 2023, from 10 AM to 3 PM.

Vice President Burrell asked to confirm that all weapons to be disposed of as noted in Motion 2023-14 are Glocks; Chief Downing confirmed.

Councilmember Orris referred to the check run report included in the meeting packet; he asked for clarification regarding a check issued in the amount of \$17,943.94 to the Maryland Delaware Railroad for the Annual License Agreement. Ms. Bohlen explained that the Town has a number of License or Access Agreements for each location where the Town's utilities or a road goes under or over a railroad.

8. Comments from the Public

Resident David Wells of Davis Square said he believes Short-Term Rentals can be very beneficial to the Town if run correctly. He said he applied for a license and was emailed by the building inspector on March 16, 2023, stating his property was approved; however, as of May 22, 2023, he still had not heard if his application had been approved for operation by the Town's Planning Department.

Resident Andrea Lahr of Purnell Avenue said she believes skateboarders have a bad reputation. She continued by saying that skaters are limited in where they can go and feels the skatepark would be a great addition to the Town.

Resident Marie Velong of West Street questioned the format change of the Mayor and Council meetings and asked why questions from the public are being excluded. Ms. Velong said she was amazed at the salary differential between staff members in the Planning Department and Economic and Development Department. She added that she feels the public should have input regarding future plans concerning the Rails and Trails Bikeway design.

Resident Claire Parsons of Kenwood Court stated she fully supports the addition of a skatepark in Town, however, she does not want it located at Stephen Decatur Park. She said she feels the skatepark would take away from the beauty and nature aspects the park offers and asked that other locations be considered.

Resident Kim Holloway of Davis Court said she feels an injustice was done to the Skatepark group that came to the meeting with the intention of getting some answers; she feels they were short-changed after all the hard work they have done. Ms. Holloway said she is very concerned that Mayor Tyndall has not signed the Short-Term Rental Ordinance. She said it makes her wonder what kind of enforcement is being done and if a blind eye is being turned.

Ms. Gladys Watson of Oak Court was present at the meeting to share her desire for a Dog Park at Stephen Decatur Park. She created a petition for supporters of the project to sign, which she had available at the meeting.

Resident Ann Marie Pollack of Nancy Avenue said it is hard for her to believe that only twelve Short-Term Rental applications were received and six were granted. She said she did a quick search of the available rental properties before attending the meeting and came across nineteen properties within Town limits. She emphasized the need for better enforcement of the ordinance.

Resident Jennifer Hickman of Church Street shared that she lives next door to an illegally rented property; she added that she feels illegal rentals put others in a dangerous situation. She said her wish is for the Town to put something in place that would prohibit patrons from being allowed on illegal properties.

Resident Adam Davis and Lauren Georgevich of South Main Street were present at the meeting to share their concerns over short-term rentals. Ms. Georgevich acknowledged there is an enforcement issue, but she said the issue is not Mr. Engelhart's fault. She continued by saying she knows Mr. Engelhart has been asking for help and nothing has been done; she said she fears someone will end up getting hurt if short-term rental enforcement is not addressed. Mr. Davis said it is embarrassing the Town cannot support the need for additional staff to help with enforcement.

Resident Laura Stearns of South Main Street shared that she was present at the meeting to support her neighbors; she said she has witnessed the short-term rental issues being discussed. She asked how the ordinance will be enforced to prove that a person does not use the short-term rental property as their primary residence.

Resident Jennifer Lynch of Ann Drive made the Mayor and Council aware that one short-term rental property owner has multiple properties listed as the primary residence.

Resident Bill Todd of Franklin Avenue said the current ordinance is confusing and feels the \$600 daily fine for violations is steep.

Ms. Lahr asked to confirm what areas in Town designate the downtown Historic District.

9. Comments from the Council

Councilmember Knerr thanked those that spoke during the meeting. He encouraged others that wished to comment on the topics discussed to write or call their councilmember.

Councilmember Nichols acknowledged that the short-term rental procedures in the ordinance are not working but said that the Council is trying to correct it. She said the purpose of implementing the \$600 daily fine was to deter violators from acting against the procedures put in place. She said she knows there are other properties acting in violation and encouraged residents to report them.

Councilmember Orris thanked those that shared their thoughts and opinions on the topics discussed during the meeting. He said they need to find a way to ensure that rules concerning the Short-Term Rental ordinance are followed and enforced. He continued by following up on an email he sent to other members of the Council reviewing the option given to municipalities for submitting three legislative priority requests through the Maryland Municipal League (MML) for the General Assembly Session; he asked that the topic be included as an agenda item for the Mayor and Council meeting on June 12, 2023, for further discussion. Mayor Tyndall indicated he would like to touch on the discussion prior to the meeting. Councilmember

Orris requested updated versions of the ARPA project plan as well as the graph provided in Fiscal Year 2023 which detailed the allocation of reserve funds that the Town oversees.

Councilmember Green thanked the members of the public that participated in the meeting. He said it is important to continue developing an appropriate path forward regarding the Short-Term rental ordinance; he emphasized that the Planning Department needs additional help. He said the way the skatepark discussion unfolded was unfortunate and feels the item should have been blocked from the agenda prior to the meeting. Councilmember Green thanked the Horticultural Advisory Committee for the work the group has been doing around the Town.

10. Comments from the Mayor

Mayor Tyndall acknowledged the change in the meeting agenda; he said the change stems from direction received from Local Government Insurance Trust legal counsel concerning how to structure public meetings and the daily operations and business of the Town. He said he values the feedback from the public and encouraged residents to contact his office with comments or concerns. Mayor Tyndall recognized the Town staff for managing the successful events over the past weekend. He added that he is happy to see the advancement of the skatepark project and apologized for the confusion regarding the pathway to move forward.

Vice President Burrell shared that he is concerned about the new agenda format; he said it is a sad time when people cannot come together and have a legitimate exchange of ideas until a certain point in the meeting. He said the need for additional staff was discussed and reminded the public that the tax rate is not official until the budget is approved.

11. Comments from the Press – none.

12. Adjournment:

On the motion of Vice President Burrell, second by Councilmember Nichols, the Mayor and Council meeting was adjourned at approximately 9:31 PM.

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Dean Burrell, VP	X				
Steve Green	X				
Jack Orris	X				
Shaneka Nichols	X				
Jay Knerr	X				
<i>Voting Tally</i>	5				

Respectfully Submitted,

Kate Daub

Kate Daub
Administrative Assistant



BERLIN MAYOR AND COUNCIL
Meeting Minutes
Work Session
Monday, June 12, 2023

6:30 PM WORK SESSION – Berlin Town Hall Council Chambers

Present: Mayor Zack Tyndall, Vice-President Dean Burrell, Councilmembers Steve Green, Jay Knerr, Shaneka Nichols, and Jack Orris.

Staff Present: Town Attorney David Gaskill, Town Administrator Mary Bohlen, Finance Director Natalie Saleh, Planning Director David Engelhart, Human Resources Director Kelsey Jensen, Administrative Assistant Kate Daub, and Executive Administrative Assistant Sara Gorfinkel.

Others Present (arrived late): Berlin Fire Company President David Fitzgerald and Chief R.J. Rhode

This meeting was broadcast live via Facebook. Mayor Tyndall called the meeting to order at approximately 6:00 PM.

1. Opening Statement:

Mayor Tyndall announced the purpose of the work session is to further review the proposed contracts of the Berlin Fire Company and Fire Company EMS for Fiscal Year 2024.

2. Discussion – Berlin Fire Company and EMS Contract Proposed Revisions

Mayor Tyndall asked the Council to draw their attention to the draft contracts included in the meeting packet which he said were also reviewed at the last work session meeting held on Monday, May 22, 2023. He continued by reviewing highlighted changes noted in the contracts and said the first recommended change to the Berlin Fire contract is in Section One line item one; he said he would like to strike “continue to meet regularly” and replace it with “meet quarterly with a workgroup of elected officials at the Town of Berlin as designated by the Mayor and Council.” He said he would like to discuss the possibility of making additional changes to this phrase by keeping the meetings open to items that should be discussed as a group. Councilmember Knerr agreed and made a motion to accept the change, however, Town Administrator Mary Bohlen clarified that the action to do so would need to be taken during the Regular Session meeting and cannot be done during the Work Session.

Town Attorney David Gaskill shared that he believes the Fire Company was intending to revisit the workgroup meetings that took place several years ago in which two councilmembers were present along with the BFC representatives; he said it is his perception they would like to include that in the contract. Vice President Burrell said he believes the meetings should be open to the public and Councilmember Nichols agreed. Mayor Tyndall added that the language in the contract could be revised to read “BFC will meet quarterly in a Work Session with the Mayor and Council.”

Councilmember Orris said he was under the impression that Mr. Gaskill and Fire Company Attorney Mr. Joe Moore had already agreed to the wording in the contracts; Mr. Gaskill confirmed he did not have agreements with anyone. He said the Fire Company sent over the contracts without any discussion. Councilmember Orris acknowledged there are two copies of the contract going around and the Fire Company does not have representatives present at the meeting to review their contract suggestions. Mayor Tyndall noted that the Fire Company was provided copies of the proposed contracts for Fiscal Year 2024 on February 8, 2023, and the Town did not receive any requested changes to the contracts from the Fire Company until thirty days ago. He said the objective was to try and avoid the contract approval process going against the Town’s budget adoption timeline. Councilmember Orris said the issue he has is

that he believed a consensus was made in which the Fire Company representatives did not need to be present for the meeting. Mr. Gaskill said it was his understanding that the contracts he sent to the Fire Company two weeks ago were perceived to be a final agreement between the two parties; he clarified that the contracts he received back on Thursday, June 8, 2023, included two suggested changes. Councilmember Knerr asked if the intention of the Work Session is to make any additional suggestions and write a final contract; Mr. Gaskill said it is his understanding that the Berlin Fire Company contracts are included as an action item during the Regular Session meeting and any motions made to approve the contracts would include the changes discussed during the Work Session. He continued by saying the changes would then be incorporated into the contracts and sent back to the Fire Company for approval.

Councilmember Green said he thought it was agreed upon at the last meeting to meet quarterly as a workgroup with elected officials; Mayor Tyndall clarified by saying it was what the Fire Company had suggested, and Vice President Burrell had recommended striking the workgroup and replacing it with the Mayor and Council. Councilmember Green said he wonders how fair it would be to incorporate the change without the Fire Company present at the meeting to speak about it. Mayor Tyndall said the Fire Company had requested the opportunity to speak more candidly during meetings and he wants to be cognizant of that.

Councilmember Orris said he was under the impression they hashed out most of the contract language at the last Work Session and the Fire Company consented to the wording and changes agreed upon between Mr. Gaskill and Mr. Moore; he said they are now proposing to make additional changes and he does not believe it is fair. Mayor Tyndall said the differences between the two versions of the contracts are what is either highlighted or underlined in the documents included in the packet; in addition to the change already discussed, he said the other modification is a suggestion made by Councilmember Knerr to Section Two and includes that the "BFC shall submit paper copies of their financial report seven business days prior to a meeting with the Mayor and Council."

Vice President Burrell asked if Councilmember Orris had a problem with the meetings being public; Councilmember Orris responded that he does not necessarily have an issue with the meetings being public, but he said he has an issue with changing things without the Fire Company having an opportunity to comment. In reply, Councilmember Knerr said the Fire Company made the changes.

Mr. Gaskill said he believes they are overcomplicating what is up for discussion; he clarified that the contracts included in the meeting packet are what the Town sent to the Berlin Fire Company as a final version. He said the only changes the Fire Company wished to make were in Section One, Paragraph One as they wanted to meet quarterly with a workgroup, and in Section One, Paragraph Three, as they requested to be notified of new development activities in Town. Mayor Tyndall added the only other item to be reviewed relates to the financials, but he acknowledged there were a few things he wanted to discuss with the Council. In addition to the changes already discussed, he said he added a note in Section Two Item Four intended for the Fire Company to make them aware that ARPA funds within Fiscal Year 2024 need to be allocated to ensure the Town of Berlin remains in compliance with ARPA.

Ms. Bohlen shared an email* received earlier in the afternoon concerning the contracts from David Fitzgerald regarding Reagan Smith of Joe Moore's office review of the contracts; she confirmed the email was also sent to the Mayor and Council. In summary, Ms. Bohlen said that based on the email it is her understanding that the last documents sent to the Council as well as Berlin Fire Company President David Fitzgerald and the Fire Company attorneys are acceptable. Mr. Gaskill commented on Ms. Bohlen's review of the email and noted that "is not what he advised them" and indicated that he "told Mr. Smith there were only two changes proposed by the Berlin Fire Company other than the money which were discussed at the last work session"; he continued by saying he made Mr. Smith aware he did not know if the Council would agree to them but said he did not believe it to be a big obstacle.

Mayor Tyndall emphasized that he included the highlighted comments in the contracts to leave the meeting open to questions and to address other items they would like to discuss. Councilmember Green said he thinks funding should be included, but he acknowledged that they have not discussed implementing a funding formula since he has joined the Council. Mr. Gaskill suggested using the clause noted in paragraph three of the EMS contract that writes “we would discuss other topics to share information regarding the EMS operations” in the Fire Company contract; Councilmember Orris echoed the suggestion.

Mayor Tyndall continued to Section Two, item two of the contract involving the amount the Town can fund to the Fire Company; he said the total grant amount that can be dispersed between the two entities is \$400,000. Ms. Bohlen added that the amount is essentially the same number as the previous year and clarified the amount for the Fire Company specifically was roughly \$116,000. Mayor Tyndall said it is important to note the Fire Company requested \$200,000, however, he said he does not know where the Town will be able to come up with the amount in the available budget in Fiscal Year 2024. Councilmember Green reverted to an email exchange between the Council and Fire Company which stated that if funding were to remain at \$116,000, the Fire Company would only provide services through January of 2024; he said the concept proposed was to revisit it after the start of the calendar year for a new contract. Mayor Tyndall said it is important to note that if signed, the agreement indicates a contract period of July 1, 2023, to June 30, 2024.

Discussion followed regarding the proposed changes to the EMS contract. Vice President Burrell suggested to use the same recommendations as they agreed upon for the Fire contract. Mayor Tyndall referenced line item five and said he included Atlantic General Hospital in the emergency and response calls report; he said he feels it gives them a more holistic picture of the EMS activities. He then referred to Section Two Item Four noting the funding allocations and said he believes they typically split the \$400,000 operating grant to cover the amounts, however, he said the Fire Company has requested \$381,608.18.

Mayor Tyndall noted that item four of Section Two highlights an amount of \$125,000 that was provided to EMS last year for additional staffing; he said the Town is only able to come up with \$72,500 for the allotment. He said the goal would be to provide the \$125,000 which could potentially be taken out of the ARPA allocations that are committed to Fire, but he said he is unsure of any other alternatives to come up with the funding.

Councilmember Green asked if there was a plan forward to have EMS on standby for a handful of Town events; Mayor Tyndall said the recommendation was based off the emergency preparedness meetings with the Police Department. He said given the short duration they have to review and get the contracts finalized, he and Ms. Bohlen agreed to table the discussion to allow for more time to negotiate the plan.

Berlin Fire Company President David Fitzgerald and Chief R.J. Rhode arrived at approximately 6:55 PM.

In an effort to summarize the contract changes discussed by the Council, Vice President Burrell said he feels the meetings should be open to the public in a Work Session format. In addition, he referenced the portion of the contract noting that the Town will notify the Fire Company of all new building and development activities; he said he feels this needs to be a little more formal and state how the Town will notify the Fire Company and what the Town expects back within a time that will not hinder the operations of the Planning Commission. Mr. Fitzgerald answered that the wording was originally included in the contract, adding that the Mayor and Council instructed them to take it out. He continued by saying that they have communicated with Mr. Engelhart and will continue to do so regarding the development activities.

Councilmember Orris asked if Mr. Fitzgerald would approve of adding the same verbiage regarding the EMS operation and financial needs clause to the Fire contract; Mr. Fitzgerald said it should be fine. Mayor Tyndall said the group also discussed potentially changing the verbiage to say BFC will meet quarterly with the Mayor and Council in a Work Session; Mr. Fitzgerald asked to see the proposed change in writing for their attorney to review.

Discussion followed regarding the Fire Company's request for funding. Mayor Tyndall said the Town is proposing \$116,960 toward the \$200,000 that has been requested in the Fire Contract; he said the Town is also proposing \$283,040 toward the \$381,608.18 requested in the EMS contract. He acknowledged that the Town is committed to providing the \$125,000 for EMS providers, however, he said they only have \$72,500 currently available in the budget. He said they hope to discuss other options and find a way to fund the balance during the Regular Session meeting.

Councilmember Green asked to confirm he understood it correctly that if the Fire amount remained at \$116,000, it would be a consideration for the Council to revisit and amend the contract after the calendar year; Mr. Fitzgerald confirmed the information was correct, however, he said they cannot make the offer for the EMS contract given that the funding is primarily for personnel. He said they cannot recruit and retain employees when they see funding has been cut. Mayor Tyndall acknowledged Mr. Fitzgerald's concern; he said he also values personnel and the services that the Berlin Fire Company provides to the Town of Berlin. He said he would argue that the \$220,000 may be better used to subsidize some of the funding needs that they have now rather than something in the future, however he said he believes having a contract number that they feel comfortable with for twelve months of service as well as the staffing funding that is need may warrant utilizing the \$200,000 in ARPA funds. Mr. Fitzgerald said they will explore the alternative.

The work session was adjourned at approximately 7:15 PM.

Respectfully Submitted,

Kate Daub

Kate Daub
Administrative Assistant

*Email attached and incorporated into these minutes as read.

Mary Bohlen

From: David A Fitzgerald <dfitzgerald@berlinfire.com>
Sent: Monday, June 12, 2023 3:52 PM
To: Zackery Tyndall; Mary Bohlen
Cc: David Gaskill; Dean Burrell; Shaneka Nichols; Jay Knerr; Steve Green; Jack Orris
Subject: Re: Berlin Fire/EMS Agreements

Mayor (and others):

I just spoke with Regan Smith who is substituting for Joe Moore. He spoke with Dave Gaskill and neither of them have any legal concerns on the contract as Mr. Gaskill advised Mr. Smith, it is now just a financial decision of the Mayor and Council.

I have not heard any additional comments this weekend as to the final documents submitted as all changes we have either discussed via exchange of documents via the attorneys or at the work session have been incorporated.

We are still available earlier if needed, but as has been stated, there is a prior engagement by the Mayor and Council at 6 pm that is taking a greater priority.

Thanks,

David

From: Zackery Tyndall <ztyndall@berlinmd.gov>
Sent: Friday, June 9, 2023 1:44 PM
To: David A Fitzgerald <dfitzgerald@berlinfire.com>; Mary Bohlen <mbohlen@berlinmd.gov>
Cc: David Gaskill <dgaskill@berlinmd.gov>; Dean Burrell <dburrell@berlinmd.gov>; Shaneka Nichols <snichols@berlinmd.gov>; Jay Knerr <jknerr@berlinmd.gov>; Steve Green <sgreen@berlinmd.gov>; Jack Orris <jorris@berlinmd.gov>
Subject: Re: Berlin Fire/EMS Agreements

David,

Thank you for following up. The Mayor and Council have an engagement between 6:00 PM and 6:30 PM on Monday night. We will have our work session at 6:30 PM where we plan to discuss the items you have sent over. As always, you and/or your Counsel are welcome to attend.

Thank you,
Zack

Get [Outlook for iOS](#)



BERLIN MAYOR AND COUNCIL

Meeting Minutes

Monday, June 12, 2023

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

Present: Mayor Zackery Tyndall, Vice President Dean Burrell, Councilmembers Steve Green, Jay Knerr, Jack Orris, and Shaneka Nichols.

Staff Present: Town Administrator Mary Bohlen, Finance Director Natalie Saleh, Electric Utility Director Tim Lawrence, Police Chief Arnold Downing, Water Resources Director Jamey Latchum, Planning Director David Englehart, Public Works Director Jimmy Charles, Town Attorney David Gaskill, Human Resources Director Kelsey Jensen, Administrative Assistant Kate Daub, and Executive Administrative Assistant Sara Gorfinkel.

Staff Absent: Economic and Community Development Director Ivy Wells

This meeting was also broadcast live via Facebook. Following a moment of silence and the Pledge of Allegiance, Mayor Tyndall called the meeting to order at approximately 7:15 PM.

1. Consent Agenda:

A) Approval of Minutes for:

1. Regular Session Minutes of 5.22.23:

Councilmember Orris asked that the Regular Session minutes be struck from the Consent Agenda and tabled for review. He said he made a comment during the Skatepark Presentation regarding the meeting agenda approval process that was omitted from the minutes; he shared that he feels the comment impacts the context of the discussion and should be included.

On the motion of Councilmember Orris, second by Councilmember Nichols, the request to table the Regular Session Minutes of 5.22.23 for review was approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Dean Burrell, VP	X				
Steve Green	X				
Jack Orris	X				
Shaneka Nichols	X				
Jay Knerr	X				
<i>Voting Tally</i>	5				

2. Work Session Minutes of 5.22.23

On the motion of Councilmember Orris, second by Councilmember Nichols, the Work Session Minutes of 5.22.23 was approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Dean Burrell, VP	X				
Steve Green	X				
Jack Orris	X				
Shaneka Nichols	X				
Jay Knerr	X				

Voting Tally	5				
--------------	---	--	--	--	--

2. Public Hearing(s):

a) Ordinance 2023-03 - FY24 Budget Adoption:

Mayor Tyndall thanked staff and his colleagues on the Council for their help in compiling the current year's budget. He asked Finance Director Natalie Saleh to review the changes made to the budget following the First Reading held on Monday, May 8, 2023.

Councilmember Orris suggested that a member of the Council make a motion to amend the current version of the budget once Ms. Saleh reviews the changes so that they can work off the document for the new budget. Town Attorney David Gaskill advised that the changes should be made as amendments when the Council votes to approve the current draft of the budget. Councilmember Orris said he wants to ensure the public is aware there are changes to the budget first presented on May 8, 2023.

Ms. Saleh confirmed several changes have been made to the budget since its introduction on May 8, 2023; she said the changes were made only to the General Fund budget and not the Utility Fund Budget. She continued by providing a detailed summary of the changes and highlighted that an adjustment has been made to the Maryland Bikeways Grant line item in the amount of \$1,160,878. Mayor Tyndall clarified this amount is what had been requested as part of the grant application submitted for the project; he said the Town has not yet been notified of the grant decision by the State. Ms. Saleh said the Parks and Recreation Grant line item was reduced because the Town did not receive funding as part of the Community Parks and Playground grant submitted, adding the new amount listed for the line item is \$254,000 and is offset by capital funding.

Ms. Saleh stated the contribution from reserves amount noted as line item ending 3871 in the budget has increased overall. She explained that due to the changes in salaries for the Police Department and the original Law Enforcement Officers' Pension System (LEOPS) amount, there is an increase of \$8,970, which requires that the Town fund the amount from Casino Revenues. She added there is an increase for the Rails and Trails project of \$60,536 to be advanced from the Capital Reserve, in addition to an increase for Rails and Trails from prior year reserves of \$39,875 as a carry forward.

Ms. Saleh reported it seems the Town will not be allocating the amount concerning the Capital Allocation for Berlin Fire Company funded by American Rescue Plan (ARPA) for Fiscal Year 2023; she said the expense must be re-budgeted and carried forward for Fiscal Year 2024. She noted there is an additional \$42,500 to be advanced from Casino Revenues to contribute to the operating budget for Emergency Services for additional staff personnel.

Ms. Saleh said there are changes in contingency due removal of the one-time payment from the budget which has resulted in a slight increase overall, however, she added there is an increase of \$5,000 for Professional Services to cover the cost of a single audit that will be required of Town grants next year. She continued by noting that the purple climber and park benches have been removed from the Capital Outlay Equipment line item ending 5255 under Parks and Recreation in the amount of \$30,000; she restated that the grant amount has changed and is now calculated at \$1,024,940.

In summary, Ms. Saleh explained that the General Fund balance following the changes presented is currently \$11,502,164, adding that Contribution from Reserves is part of it. She said \$2,226,000 of the General Fund balance is a variation of either the ARPA grant carry forward, advancement from Capital Reserve, or the carry forward balance. She reported that the Electric Fund balance is \$8,013,230 with a carry forward from reserves in the amount of \$600,000, adding there is a potential obligation for a bond or loan as part of the AMI project for \$750,000, which would become part of the total budget for Electric. Ms.

Saleh continued by saying the Water Fund balance is \$2,526,370 and the carry forward is primarily all the ARPA reallocation to the next year in the amount of \$1,255,000. Lastly, Ms. Saleh reported the Sewer Fund balance is \$5,378,310 with a carry forward or advancement from reserve in the amount of \$1,765,100 and the Stormwater Fund has a budget of \$1,226,850 with carry forward funds or investment from reserves in the amount of \$383,000 for capital projects.

Mayor Tyndall opened the Public Hearing at 7:34 PM.

Resident Jeseke Tucker of South Main Street asked if a compromise could be reached on the proposed increase for Business License Fees; she asked that a 20% increase be considered versus a 100% increase. It was noted that the Business License Fee was not part of the Budget Ordinance discussion.

Hearing no further comments from the public, Mayor Tyndall closed the Public Hearing at 7:36 PM.

A lengthy discussion followed to clarify questions had by members of the Council regarding the budget presented. During this time, additional recommendations were made by the Council as proposed alternatives to the amendments reviewed by Ms. Saleh. Councilmember Orris asked to revisit his request to add a Code Enforcement and/or an Administrative position to the Planning Department. Town Administrator Mary Bohlen reported that she has had discussions with Planning Director David Engelhart about the position; she said they agree the Deputy Town Administrator role often takes on special projects, as she did when she was in that role. Because of this, she said they feel the Deputy Town Administrator could be assigned to any department and can be utilized by the Planning Department as needed. She continued by saying that doing so would allow Mr. Engelhart and Permit Coordinator Carolyn Duffy to focus more on the code enforcement function.

Councilmember Knerr said he received a call from resident Cam Bunting who is the chair of the Local Development Council (LDC); he said she has concerns about the slot revenue allocation and has asked that the topic be added as an agenda item for the next Regular Session meeting to speak to the issue. He continued by saying Ms. Bunting's concern is that the Town has not discussed the proposed allocation with the LDC and has not submitted a multi-year plan which has been repeatedly requested. Mayor Tyndall clarified that past discussions by the Mayor and Council centered around developing a multi-year plan in conjunction with the budget; he said the LDC funds allocated to LEOPS would not be needed until December of 2024, as that is when the first payment for LEOPS would be due. Mayor Tyndall said the topic can be added as an agenda item to a meeting in the coming weeks.

Councilmember Green said he was okay with the budget amendments Ms. Saleh proposed with the exception of reducing the Berlin EMS operating allocation amount by \$52,500. In an effort to address this, Councilmember Green offered further adjustments to the budget to create additional funding and extensive conversation between the Mayor and Council followed. Councilmember Green proposed cutting the IT Server Replacement at \$21,000 and replacing it with the \$1,500 Service Agreement alternative. He continued by suggesting removing the Police Car Video line item in the amount of \$20,000 given that a grant opportunity is currently being pursued for the project, as well as increasing the projected Income Tax Revenue line item from \$460,000 to \$500,000; Councilmember Green emphasized that the changes would bring in \$79,500 and of that amount, \$52,500 can be redirected to fund the remaining EMS shift money. He added that he would like to restore the one-time payment for staff with the additional funds leftover in the amount of \$250 per employee; he stressed that he does not want the payment to be referred to as one-time and suggested it be listed as a "year-end payment." He acknowledged that the Council is pleased to see the direction being taken to formalize a salary structure as well as incorporating the 2.25% Cost of Living increase, however, he said he feels it is important to recognize that many employees are still not getting what they believe they deserve and embraces the concept of an end of the year payment.

Councilmember Green said he personally prefers the Code Enforcement position to be under the Planning Department. He said he does not necessarily have a problem with the plan forward as described by Ms. Bohlen, but said he feels it would be better if the new position were to remain in the Planning Department. He confirmed that there would be \$15,000 remaining from the General Fund after incorporating the changes he recommended.

Ms. Saleh reminded the Council that the local income tax is impacted by many factors which is why she budgets conservatively. She explained that if the expenses are within the budgeted amounts and the revenues received are above what was projected, the surplus is transferred to the unassigned balance of the General fund each year. Ms. Saleh confirmed this is how the financial stability of the Town's General Fund is created. She emphasized that advancing the revenue or increase in the revenue projections for ongoing expenditure would not be her recommendation going forward; she added that she does not have a problem going to \$500,000 on the budget, but she stressed that it is not the practice the Town should adopt. Mayor Tyndall reminded the Council that if the Town's income tax revenue were to come in less than what is projected, it would be reflected on the year-end balance in a negative capacity. He said that budgeting more conservatively typically allows the Town to close the year with a decent budget.

Vice President Burrell asked to confirm the expected salary of the vacant Deputy Town Administrator position; Human Resources Director Kelsey Jensen answered that the salary is listed as \$103,724 based on the Paypoint HR study. Vice President Burrell said he believes the salary warrants some discussion. Ms. Bohlen said it may set a somewhat dangerous precedent if the study were to be followed most of the way and deviated from regarding one position. Vice President Burrell said he is not comfortable offering \$103,000 to a new employee when other employees have worked for the Town for years to achieve that level of salary.

Councilmember Nichols said she acknowledges there is a position of need in the Planning and Zoning Department but feels the position being discussed may warrant a new title. Mayor Tyndall encouraged the Council not to muddy the waters on the two positions. Councilmember Nichols said she does not believe the Deputy Town Administrator role is one that needs to be filled at the price point discussed.

Councilmember Orris proposed his adjustments to the budget by saying he would like to increase the projected income tax revenue to \$500,000 and move forward with the \$1,500 IT Service Replacement agreement. He said he would also eliminate the Police Car Video as well as offer a starting base salary of \$56,000 with benefits for the new position being discussed which he said would total \$70,000.

As the discussion continued and additional points of emphasis were considered, Mayor Tyndall asked the Council for a summation of the proposed path forward. Councilmember Nichols said she believes the Council can agree that they do not want to offer a starting salary of \$103,000 to a Deputy Town Administrator; she said it would be prudent to look at a different role to fill with the funds available. Mayor Tyndall emphasized the importance of succession planning and said that it would create a void should the Council choose to eliminate the Deputy Town Administrator role.

Ms. Saleh suggested that the Council recap the proposed changes they wish to make to the budget for clarification. She asked to confirm the consensus is to reinstate a total of \$125,000 to the EMS Funding for two additional employees. Councilmember Knerr said he is in full agreement to provide the EMS funding in the amount of \$125,000. He said he agrees with the recommendations that have already been proposed to cut the IT Server and Police In-Car video cameras, as well as increase the State income tax revenue to \$500,000. He said he believes the Deputy Town Administrator role should be renamed Special Projects

Coordinator or Special Projects Administrator to fulfill the needs of various departments; he said this role would be in place of hiring a Deputy Town Administrator in the next fiscal year.

Following a review of the changes to the proposed budget as discussed by the Council, Mayor Tyndall asked for final clarification before a motion was made to approve the amendments. In summation, Mayor Tyndall confirmed the Council agreed to approve the changes made to the current draft budget prepared by Ms. Saleh and included in the Regular Session meeting packet. In addition, Mayor Tyndall confirmed that Council was in agreement to increase EMS funding to \$125,000 by reducing the IT Server Replacement to \$1,500 and eliminating the Police In-Car Video line item of \$20,000 entirely. Mayor Tyndall also confirmed the Council agreed to reinstate the year-end bonus for all staff in the amount of \$250 per employee as well as reduce the salary of the Deputy Town Administrator to \$70,000. The Council shared the belief that the position should be renamed in order to meet the needs of Administration and the Planning Department.

On the motion of Vice President Burrell, second by Councilmember Orris, Ordinance 2023-03: FY24 Budget Adoption with amendments was approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Dean Burrell, VP	X				
Steve Green	X				
Jack Orris	X				
Shaneka Nichols		X			
Jay Knerr	X				
<i>Voting Tally</i>	4	1			

Mayor Tyndall addressed Vice President Burrell's question concerning why the ARPA funds were not reallocated in the budget; he said he does not have the ability to reallocate funds when proposing the budget.

Ms. Saleh made the Council aware that the approved amendments to the budget have created an excess of revenue. After confirming the amounts reflected by the changes, Ms. Saleh reported there is roughly \$45,000 in excess generated in the budget to go to Contingency.

As a result, Councilmember Orris made a motion to add the IT Server for \$21,000 and Police In-Car Video for \$20,000 back on the budget.

On the motion of Councilmember Orris, second by Councilmember Green, Ordinance 2023-03: FY24 Budget Adoption with additional amendments were approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Dean Burrell, VP	X				
Steve Green	X				
Jack Orris	X				
Shaneka Nichols	X				
Jay Knerr	X				
<i>Voting Tally</i>	5				

b) Ordinance 2023-04: Amending Chapter 8, Article II Entitled Business Licenses

Town Attorney David Gaskill reviewed the proposed revisions to the ordinance; he said the ordinance simply requires any business that provides services in the Town to get a business license no matter the business's physical location.

Mayor Tyndall opened the Public Hearing at 8:45 PM.

After no public comments were made, Mayor Tyndall closed the Public Hearing at 8:45 PM.

On the motion of Councilmember Knerr, second by Councilmember Orris, Ordinance 2023-04: Amending Chapter 8, Article II Entitled Business Licenses were approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Dean Burrell, VP	X				
Steve Green	X				
Jack Orris	X				
Shaneka Nichols	X				
Jay Knerr	X				
<i>Voting Tally</i>	5				

3. Item(s) For Approval

a) Motion 2023-15 MD/DE Railroad License Agreement at Evans Road for future Evans Parc Storage Project: Ms. Bohlen explained that the item up for approval is the License Agreement between the Town of Berlin and the Maryland-Delaware Railroad. She clarified that part of what the agreement is hinged on is the agreement between Evans Parc Storage and the Maryland-Delaware Railroad; she added that as the construction is underway, Evans Parc Storage is responsible for the license agreement with the railroad specifically for the work they will be doing by going under the railroad during construction. Ms. Bohlen continued by saying that once the construction is complete the Town will assume ownership, which she said is the way it is handled with any type of development. She stated that once the new utilities are in place, inspected and approved by the Town, the License Agreement will shift, and Town will accept ownership at that time. Mr. Gaskill added that the Town cannot put utilities under the railroad without their permission which is why there is a license agreement in place.

Councilmember Orris asked what the agreement would do for the potential Rails and Trails project; Mr. Gaskill said the project would not be affected. He explained that Evans Parc will enter into a License Agreement with the Maryland-Delaware Railroad and will be responsible for constructing the lines underneath the tracks. Once the construction is complete to the Town's satisfaction, Mr. Gaskill said the Town will take ownership of any sewer, water, or electric lines installed. Councilmember Orris asked if the fifteen-year agreement term is accurate; Ms. Bohlen confirmed, adding that it is a standard term for the railroad.

Vice President Burrell asked to be provided with more information regarding the inspection process and what would go into certifying the work to ensure it meets the standards of the Railroad. Ms. Bohlen answered that it will be constructed to Town standards and inspected; Mr. Gaskill added that the Town's engineers will inspect the work to ensure it is done correctly before accepting ownership. Mr. Marc Slavin, one of the managing members of Evans Parc Storage, stated the project's engineers have been working closely with the Railroad's engineering firm and the railroad engineer has approved the work after at least twelve iterations. Councilmember Orris asked if the project would have any effect on stormwater; Planning Director David Engelhart said no because it is underground. Ms. Bohlen added that the net change to the road will be zero. Water Resources Director Jamey Latchum said that the project will be overseen by DBF Engineering, and he confirmed that an engineer will be on-site to review the records and make sure the

materials match the submittals. Mr. Engelhart made the Council aware that the infrastructure is all bonded by Mr. Slavin; he said there is a two-year warranty period from the date of completion and the Town will have the ability to take the bond if any issues arise during that time.

On the motion of Councilmember Orris, second by Councilmember Nichols, Motion 2023-15 MD/DE Railroad License Agreement at Evans Road for future Evans Parc Storage Project was approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Dean Burrell, VP	X				
Steve Green	X				
Jack Orris	X				
Shaneka Nichols	X				
Jay Knerr	X				
<i>Voting Tally</i>	5				

b) Motion 2023-16 Evans Parc Storage License Reimbursement Agreement:

Mr. Gaskill reported that the Railroad charges a licensing fee each year. He said Mr. Slavin's firm would still be required to pay the license fee even after the Town takes over; he added that the agreement will be recorded in the Land Records in case Mr. Slavin's group were to sell to someone else. Ms. Bohlen also noted that, if new building projects were to connect to the system in the future, the Town would relieve Evans Parc of the requirement to reimburse the license fee from that point.

On the motion of Councilmember Knerr, second by Councilmember Nichols, Motion 2023-16 Evans Parc Storage License Reimbursement Agreement was approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Dean Burrell, VP	X				
Steve Green	X				
Jack Orris	X				
Shaneka Nichols	X				
Jay Knerr	X				
<i>Voting Tally</i>	5				

Mr. Slavin thanked the members of the Town that helped him with the project.

c) Motion 2023-17 MD/DE Railroad License Agreement for Berlin Bikeway Project:

Mayor Tyndall recognized Ms. Cathrin Banks, the CEO of the Maryland Delaware Railroad, by saying she has been a great partner for the Town of Berlin as it relates to all the agreements put before the Council during the meeting. He continued by saying that the draft agreement included in the meeting packet is what the Town submitted on June 7, 2023, as part of the Berlin Bikeway grant application. He added that the Maryland Department of Transportation has given the Town until June 21, 2023, to amend or further bolster its application. Mayor Tyndall highlighted the third line of the motion which noted if changes to the draft agreement are proposed, they will be further reviewed by the Town Attorney and recommended to the Mayor and Council based on pursuing the best interest of the Town of Berlin. Ms. Bohlen emphasized that they do not like to bring agreements before the Council that are not ready to go, however, she added that it was necessary in this case due to the timing of the grant application.

Councilmember Orris asked if the money that has already been allocated or reserved for the project is for the construction or design phase of the Bikeway; Mayor Tyndall confirmed the money is for construction. He continued by saying that taxpayers are paying almost ten cents on the dollar for the grant because of the partnerships the Town has with Worcester County. Councilmember Orris said he reviewed the Bikeway Grant website and their past awards; he shared that 67% of the projects have been designed and only 12% have been constructed. He said this ratio concerns him, along with the fact that some property owners that would be in the Bikeway path have brought forth concerns about how the project would affect their income opportunities and other stormwater-related issues that may stem from the inclusion of a Bikeway. Mayor Tyndall said that the grant application the Town put forward is modeled off one that was approved last fiscal year; Councilmember Orris noted that he did not see it listed on the Bikeway grant website. Mr. Engelhart added that the pathway is entirely within the railroad's property and stormwater was taken into consideration as part of the design.

Councilmember Knerr asked if the plans received a few years ago were still valid; Mr. Engelhart confirmed they were recently amended.

On the motion of Councilmember Orris, second by Councilmember Nichols, Motion 2023-17 MD/DE Railroad License Agreement for Berlin Bikeway Project was approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Dean Burrell, VP	X				
Steve Green	X				
Jack Orris	X				
Shaneka Nichols	X				
Jay Knerr	X				
<i>Voting Tally</i>	5				

d) Motion 2023-18 Smart Meter Installation Award of Contract:

Mayor Tyndall made the Council aware that the Staff Report included in the meeting packet as part of the agenda item includes a recommendation to reallocate some of the ARPA spending designated by the Council when the group approved the Town's ARPA spending claim. He continued by saying there is a \$1 million allocation for a Wastewater Treatment Plant upgrade; he said the projected cost of the upgrade was to exceed \$2.5 million at the time the ARPA Spending Plan was adopted. Mayor Tyndall reported that the Water Resources Department in conjunction with the Mayor's Office and DBF Engineering have been in discussions concerning ways to increase the capacity of the Town's existing wastewater treatment plant to reduce the \$2.5 million expenditure.

He said it was determined that the Town could potentially extend the operating capacity of the existing Wastewater Treatment Plant by approximately five to ten years by changing the location of its metered effluent. Mayor Tyndall stated the recommendation is to reallocate the \$1 million of ARPA funding previously designated for the Treatment Plant Upgrade and allocate an additional \$500,000 toward the Smart Meter Installation project. In addition, Mayor Tyndall explained that staff recommends allocating the remaining \$500,000 toward the drilling of a new water well, adding the location of the well will be determined at the beginning of Fiscal Year 2024.

Extensive discussion followed as members of the Council sought additional clarification regarding the information provided in the staff report.

On the motion of Councilmember Orris, second by Vice President Burrell, Motion 2023-18 Smart Meter Installation Award of Contract to Goody Hill in the amount of \$776,900, the reallocation of the \$1

million of ARPA funding for the Wastewater Treatment Plant upgrade toward an additional \$500,000 for the Smart Meter Installation and \$500,000 toward the drilling of a new water well was approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Dean Burrell, VP	X				
Steve Green	X				
Jack Orris	X				
Shaneka Nichols	X				
Jay Knerr	X				
<i>Voting Tally</i>	5				

e) Motion 2023-19 Berlin Fire Company ad Berlin Fire Company Emergency Medical Services FY24 Agreements:

Mayor Tyndall noted that it was discussed during the Work Session held earlier in the evening to add the language from the EMS side to the Fire contract which reads “other topics to share information regarding the EMS operations and financial needs.” In addition, he said the contract should read the two groups will meet quarterly as a Work Session of the Mayor and Council to discuss a funding formula for fire and rescue operations and capital apparatus replacement and other topics to share information regarding Fire Rescue or EMS operations and financial needs. He said the agreements also include what was previously discussed, which is that information must be provided to the Mayor and Council seven business days prior to a meeting with the Berlin Fire Company and EMS.

Mayor Tyndall continued by providing a brief review of the contract changes; he said the ARPA funds will remain untouched at this time and the Planning Department will agree to notify the Fire Company of any new development activities in Town. Mayor Tyndall also highlighted that the Mayor and Council requests to see calls broken out for Atlantic General Hospital in the quarterly report. He added that the annual payment of \$283,040 to EMS remains unchanged, however, he said the Town has met the \$125,000 which is covering half of the expense for two additional personnel for twenty-four hours. Lastly, Mayor Tyndall acknowledged that the correct dates of the contract should be revised to read July 1, 2023, to June 30, 2024.

On the motion of Councilmember Knerr, second by Vice President Burrell, Motion 2023-19 Berlin Fire Company and Berlin Fire Company Emergency Medical Services FY24 Agreements with changes was approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Dean Burrell, VP	X				
Steve Green	X				
Jack Orris	X				
Shaneka Nichols	X				
Jay Knerr	X				
<i>Voting Tally</i>	5				

f) Motion 2023-20 Electric Utility Program Apprenticeship Participation:

Electric Utility Director Tim Lawrence reported that his department currently has three apprentices that are attending the lineman training program; he said along with a new position within the Power Plant, he will have four total apprentices going to school. He stated the course his employees are attending is recognized nationwide and is considered one of the top lineman training programs offered. Consequently,

Mr. Lawrence explained that he contacted Mr. Bob Zimmer, an apprentice navigator for the Maryland Apprenticeship Training Program with the Maryland Department of Labor; he said they worked together to possibly move forward with allowing the Town of Berlin to be the first municipality in the State of Maryland to officially sponsor an apprenticeship training program.

Mr. Lawrence shared that Ms. Jensen has been very involved with the process along with Ms. Bohlen. He said he is seeking approval from the Mayor and Council to participate in the State sponsorship; in doing so, Mr. Lawrence said it may open doors for multiple avenues to grant funding for training to help pay for the program. He explained there would be no financial impact on the Town beyond the standard salary benefits and training costs, however, he said he may personally feel more of a burden to keep up with all that will come with the program.

Vice President Burrell asked Mr. Lawrence what it means to be a State Sponsor and if there will be any liability to the Town by participating in the program. Mr. Lawrence answered the only liability is to make sure the linemen, meter technicians, and his Power Plant apprentice are properly trained to be the best they can be; he said doing this creates an incentive for employees and helps with retention. In addition, Mr. Lawrence said that all on-the-job training and tasks performed will be documented and reported to the State. He said the State will also require the Town to indicate how much a percentage of a rate increase an employee will receive for each step they complete; he explained this will coincide with the Paypoint HR Pay Study findings to determine what each employee should be compensated as it relates to the steps completed.

Ms. Jensen added that should the Mayor and Council approve participation, they will need to go before the State Board for final approval; she said the meeting is scheduled for July 11, 2023. She confirmed that becoming a sponsor would not make the Town liable to do any training for other organizations; she said the option to do so can be explored in the future but said it is not required. Ms. Jensen shared that salaries were discussed with Mr. Zimmer, and he recommended going lower than what the Town would likely pay; she said Mr. Zimmer advised that once the Town enters into a State contract, salaries can be amended.

On the motion of Councilmember Green, second by Councilmember Nichols, Motion 2023-20 Electric Utility Program Apprenticeship Participation was approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Dean Burrell, VP	X				
Steve Green	X				
Jack Orris	X				
Shaneka Nichols	X				
Jay Knerr	X				
<i>Voting Tally</i>	5				

7. Reports: Town Administrator's Report, Departmental Reports

Ms. Bohlen shared that Ms. Saleh completed a year-long course of study at the University of Baltimore Schaffer Center for Public Policy Virtual Maryland Certified Public Manager class. On behalf of the Department Heads and all Town employees, she thanked the Mayor and Council for the consideration given in this year's budget process, particularly the incorporation of the Wage and Salary study.

Councilmember Orris asked Ms. Bohlen to follow up on the Board of Elections meeting that was noted in her weekly report; Ms. Bohlen said a previous discussion had been held about possibly moving the election date and polling location to the same location as the National, State, or County elections. She clarified this would not mean that the elections are being run by the State, but rather that they would be located in a

hallway or room outside the main election. She said the idea would be to try and increase voter participation, adding there are many questions that must be answered before getting to that point. Councilmember Orris acknowledged that Economic and Community Development Director Ivy Wells was not present at the meeting but asked if the Fourth of July Fireworks show sponsorships were covered; Ms. Bohlen said she was not sure. Councilmember Orris asked Public Works Director Jimmy Charles if it would be possible to put a cone on both ends of the Vehicle Safety Barriers used during events; he said he was made aware that people were hitting their shins on them at the Bathtub Races last week. Mr. Charles answered that it would be possible. Councilmember Orris asked Mr. Latchum if there was a timeline for the water pump repairs needed at Franklin Knoll; Mr. Latchum said he is waiting on the arrival of parts to complete the repairs.

8. Comments from the Public

Resident Marie Velong of West Street shared her concerns about the change in agenda format for Town meetings; she said she sent an email and was told that it would be discussed with the Council but said she has not received a reply. Ms. Velong said she does not see anything that requires a change in format due to the First Amendment Audits and feels the format shuts down any communication that can be had between the Council and Town they represent. She commented on the \$1,500 payment the Town has paid the Railroad for the past six years to reserve the right to the Bikeway; she asked what precautions were being taken to protect the users of the Bikeway once they were to reach Evans Road. Ms. Velong said she hopes there will be an opportunity to review the Easterly plans given that have been submitted for the grant.

Resident Jayden Johnstone of Schooner Lane said he has spent a lot of time learning about invasive species in Maryland and on the Eastern Shore while at school; he said that he has noticed there are a lot of invasive species overtaking some of the trees and shrubbery throughout the Town, especially on the side of the roads. He asked if there are any efforts being taken to address this.

9. Comments from the Council

Vice President Burrell said that when it becomes necessary to have an email vote regarding Town matters, the vote should be shared with the public. He said he feels the number of emails that they must digest between meetings is overwhelming; he shared that he feels it limits interaction with the public in ways and asked that the Council try and curb it. He added that he will no longer be able to participate in Closed Meetings of the Fire Department contract or funding discussions and negotiations with Palmer Gills regarding the Heron Park purchase. In addition, he said he is now of the opinion that any discussion of contracts after the award should be and must be held in Open Meetings.

Councilmember Knerr said he was recently in Virginia Beach and saw signs on various properties identifying each one as a Short-Term Rental property. He said he felt it was a very effective way for the public to reach out to the powers that be if there was a problem with one of the properties and asked if the Council would endorse an amendment to the ordinance to include a sign of this nature in the plan forward. Mr. Engelhart acknowledged that the use of signs is already included in the ordinance, but he said it does not specify the size required. Mayor Tyndall asked Mr. Engelhart to get a quote on the possibility of ordering twenty-five signs; from there, he said they can look at the cost of the sign and come up with what a replacement cost should be to ensure the ordinance reflects the information.

Councilmember Nichols referred to Mr. Johnstone's comment regarding invasive species; she encouraged Mr. Johnstone to reach out to the Berlin Horticultural Advisory Committee to find out what they are doing to address the problem.

Councilmember Orris acknowledged the lack of dialogue offered as part of the current agenda format; he asked when dialogue should happen. Mayor Tyndall said it should happen during the Public Comment portion. He asked Mr. Engelhart if the Council would have an opportunity to review the design plans for the Rails and Trails project when it comes back around; Mr. Engelhart confirmed. He encouraged the public to remember general safety rules and be mindful of summertime awareness as the warmer weather approaches.

Councilmember Green shared his concern that the new meeting agenda format is creating the feeling that the opinions of the public do not matter. He said he knows that is not the case, but he asked the Mayor to consider some flexibility to the agendas, adding he hopes they can find a middle ground. Councilmember Green said the Bathtub Races were a fun event and he praised the Electric Department team for participating. He continued by saying many governments are starting to react to the Cannabis Law change. He noted that the law allows municipalities to prohibit the operational onsite consumption in establishments and believes it is only a matter of time before the Town of Berlin receives a request. He suggested that the Council consider addressing this topic sooner than later with guidance from Mr. Gaskill. Mayor Tyndall asked Councilmember Green if he wanted an analysis of the potential options available to the Town regarding the new law change or for a Discussion item to be added to a future meeting agenda; Councilmember Green said he believes a Discussion Item would be beneficial.

Mayor Tyndall acknowledged there may have been some confusion regarding public comment and participation regarding recent agenda items. He said they can try to implement a public comment portion as part of agenda items that may warrant more public interest which could formalize and clean up the process. He said the difficulty is that they cannot always speculate what the public comment may be in reference to. Vice President Burrell stated they are supposed to be sensitive to the needs and requests of the public and believes public comment should be allowed with the successful motion of the Council regardless of whether it is included in the agenda.

10. Comments from the Mayor

Mayor Tyndall thanked the Council and Department Heads for their help and input in the budgeting process and congratulated those that participated in the Bathtub Races.

11. Comments from the Press – none.

12. Adjournment:

On the motion of Vice President Burrell, second by Councilmember Nichols, the Mayor and Council meeting was adjourned at approximately 10:10 PM.

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Dean Burrell, VP	X				
Steve Green	X				
Jack Orris	X				
Shaneka Nichols	X				
Jay Knerr	X				
<i>Voting Tally</i>	5				

Respectfully Submitted,

Kate Daub

Kate Daub
Administrative Assistant

ORDINANCE NO. 2023-XX

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN TO AMEND CHAPTER 8, ENTITLED BUSINESSES, BY ADDING ARTICLE IV, TO PROHIBIT THE OPERATION OF ON-SITE CONSUMPTION ESTABLISHMENTS

NOW, THEREFORE, BE IT ENACTED BY THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN THAT CHAPTER 8, ENTITLED BUSINESSES, BE AND IT IS HEREBY AMENDED , BY ADDING ARTICLE IV AS FOLLOWS:

Chapter 8 - BUSINESSES

...

ARTICLE IV. - ON-SITE CONSUMPTION ESTABLISHMENTS

SEC. 8-57 - LEGISLATIVE FINDINGS, INTENT, AND PURPOSE.

- (A) THE CANNABIS REFORM BILL WAS SIGNED INTO LAW ON MAY 3, 2023, WITH AN EFFECTIVE DATE OF JULY 1, 2023. THIS LEGISLATION, AMONG OTHER THINGS, EXPANDED CANNABIS LICENSING WITHIN THE MARYLAND ANNOTATED CODE. SECTION 36-401 OF THE ALCOHOLIC BEVERAGES ARTICLE SPECIFICALLY CREATED AN “ON-SITE CONSUMPTION LICENSE” WHICH AUTHORIZES THE HOLDER OF THE LICENSE TO OPERATE A FACILITY ON THE PREMISES OF WHICH INDIVIDUALS CAN SMOKE OUTDOORS, VAPE, OR CONSUME CANNABIS, IN ACCORDANCE WITH CERTAIN OTHER PROVISIONS OF MARYLAND LAW. SECTION 36-407 OF THE ALCOHOLIC BEVERAGES ARTICLE SPECIFICALLY ALLOWS MUNICIPALITIES TO PROHIBIT THE OPERATION OF ON-SITE CONSUMPTION ESTABLISHMENTS.
- (B) THE MAYOR AND COUNCIL FIND THAT IN ORDER TO PROMOTE AND PROTECT THE PUBLIC’S HEALTH, SAFETY AND WELFARE, A PROHIBITION OF THE OPERATION OF ON-SITE CONSUMPTION ESTABLISHMENTS AND THE PROHIBITION TO THE ISSUANCE OF ANY LICENSE THAT WOULD PERMIT ON-SITE CONSUMPTION OF CANNABIS IS JUST AND PROPER.
- (C) THE MAYOR AND COUNCIL FIND THAT IT IS WITHIN ITS RIGHT, AS A POLITICAL SUBDIVISION, TO PROHIBIT THE OPERATION AND LICENSING OF ON-SITE CONSUMPTION ESTABLISHMENTS.

SEC. 8-58. - DEFINITIONS

THE FOLLOWING WORDS, TERMS, AND PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANING ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT

CLEARLY INDICATED A DIFFERENT MEANING:

- (A) "CANNABIS" MEANS THE PLANT CANNABIS SATIVA L, AND ANY PART OF THE PLANT, INCLUDING ALL DERIVATIVES, EXTRACTS, CANNABINOIDS, ISOMERS, ACIDS, SALTS, AND SALTS OF ISOMERS, WHETHER GROWING OR NOT, WITH A DELTA-9-TETRAHYDROCANNABINOL CONCENTRATION GREATER THAN 0.3% ON A DRY WEIGHT BASIS AND THIS SHALL INCLUDE CANNABIS PRODUCTS AND EDIBLE CANNABIS PRODUCTS AS DEFINED BY SECTIONS 1-101 AND 36-101 OF THE ALCOHOLIC BEVERAGES ARTICLE OF THE MARYLAND ANNOTATED CODE, AS AMENDED FROM TIME TO TIME.
- (B) "ON-SITE CONSUMPTION ESTABLISHMENT" MEANS AN ENTITY LICENSED PURSUANT TO SECTION 36-401(C)(4) OF THE ALCOHOLIC BEVERAGES ARTICLE OF THE MARYLAND ANNOTATED CODE THAT ALLOWS CANNABIS TO BE CONSUMED (SMOKED, VAPED OR OTHERWISE INGESTED) ON PREMISES.

SEC. 8-59. - PROHIBITED ACTS

- (A) IT SHALL BE PROHIBITED FOR AN ON-SITE CONSUMPTION ESTABLISHMENT TO OPERATE WITHIN THE CORPORATE LIMITS OF THE TOWN OF BERLIN. NO LICENSE OR PERMIT SHALL BE ISSUED AT ANY TIME THAT AUTHORIZES SAID OPERATION.
- (B) IT SHALL FURTHER BE PROHIBITED FOR ANY ESTABLISHMENT TO PERMIT THE CONSUMPTION (SMOKED, VAPED, OR OTHERWISE INGESTED) OF CANNABIS OR CANNABIS PRODUCTS ON-SITE.

SEC. 8-60 - PENALTIES

- (A) A PERSON WHO OPERATES, OR CAUSES TO BE OPERATED, AN ESTABLISHMENT THAT ALLOWS FOR ON-SITE CONSUMPTION OF CANNABIS OR CANNABIS PRODUCTS IS IN VIOLATION OF THIS ARTICLE AND SHALL BE SUBJECT TO THE FOLLOWING PENALTIES AND/OR REMEDIES:
 - (1) A VIOLATION OF THIS ARTICLE SHALL BE A MUNICIPAL INFRACTION AND SUBJECT TO THE PENALTIES AND REMEDIES SET FORTH IN SECTION 2-368 OF THIS CODE.
 - (2) EACH DAY THAT ANY VIOLATION CONTINUES AFTER A RECEIPT OF A WRITTEN NOTICE OF SUCH VIOLATION SHALL CONSTITUTE A SEPARATE VIOLATION AND A SEPARATE OFFENSE FOR PURPOSES OF THE PENALTIES AND REMEDIES SPECIFIED HEREIN.
 - (3) IN ADDITION TO THE PENALTIES ABOVE, THE TOWN MAY INSTITUTE ANY APPROPRIATE ACTION OR PROCEEDINGS TO PREVENT, RESTRAIN, CORRECT, OR

ABATE A VIOLATION OF THIS ARTICLE, AS PROVIDED BY LAW INCLUDING BUT NOT LIMITED TO INJUNCTIVE RELIEF.

THIS ORDINANCE was introduced and read at a meeting of the Town Council held on the _____ day of _____, 2023, and thereafter a statement of the substance of the Ordinance having been published as required by law.

A PUBLIC HEARING was held and this Ordinance was adopted this ____ day of _____, 2023, by the Mayor and Council of the Town of Berlin, Maryland by affirmative vote of _____ in favor, to _____ opposed, with _____ abstaining.

Dean Burrell, Vice-President

Approved on this _____ day of _____, 2023 by the Mayor of the Town of Berlin and was therefore effective twenty (20) calendar days later on the ____ day of _____, 2023.

Zackery Tyndall, Mayor

ATTEST: Mary Bohlen, Town Administrator

ORDINANCE NO. 2023-05

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN AMENDING CHAPTER 32, TITLED VEHICLES AND TRAFFIC, BY ADDING ARTICLE VI TO ESTABLISH THE USE OF SPEED ENFORCEMENT CAMERAS IN DESIGNATED SCHOOL ZONES.

NOW, THEREFORE, BE IT ENACTED BY THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN THAT CHAPTER 32, ENTITLED VEHICLES AND TRAFFIC, BE AND IT IS HEREBY AMENDED, BY ADDING ARTICLE VI AS FOLLOWS:

Chapter 32 - Vehicles and Traffic

...

ARTICLE VI - USE OF SPEED CAMERAS IN DESIGNATED SCHOOL ZONES.

§ 32-223. SCHOOL ZONES DESIGNATED

- A. SUBJECT TO COMPLIANCE WITH ALL APPLICABLE PROVISIONS OF §21-803.1 OF THE TRANSPORTATION ARTICLE OF THE ANNOTATED CODE OF MARYLAND, THE MAYOR AND COUNCIL DESIGNATE THE FOLLOWING ROADS AS SCHOOL ZONES:
- (1) BUCKINGHAM ELEMENTARY SCHOOL ZONE: ALL PUBLIC ROADS LOCATED WITHIN A HALF-MILE RADIUS OF BUCKINGHAM ELEMENTARY SCHOOL, WHICH IS LOCATED AT 100 BUCKINGHAM ROAD, BERLIN, MARYLAND.
 - (2) BERLIN INTERMEDIATE SCHOOL ZONE: ALL PUBLIC ROADS LOCATED WITHIN A HALF-MILE RADIUS OF BERLIN INTERMEDIATE SCHOOL, WHICH IS LOCATED AT 309 FRANKLIN AVENUE, BERLIN, MARYLAND.
 - (3) STEPHEN DECATUR MIDDLE SCHOOL ZONE: ALL PUBLIC ROADS LOCATED WITHIN A HALF-MILE RADIUS OF STEPHEN DECATUR MIDDLE SCHOOL, WHICH IS LOCATED AT 9815 SEAHAWK ROAD, BERLIN, MARYLAND.
 - (4) STEPHEN DECATUR HIGH SCHOOL ZONE: ALL PUBLIC ROADS, EXCEPT FOR ROUTE 50, LOCATED WITHIN A HALF-MILE RADIUS OF STEPHEN DECATUR HIGH SCHOOL, WHICH IS LOCATED AT 9913 SEAHAWK ROAD, BERLIN, MARYLAND.
 - (5) WORCESTER PREPARATORY SCHOOL ZONE: ALL PUBLIC ROADS, EXCEPT FOR ROUTE 113, LOCATED WITHIN A HALF-MILE RADIUS OF WORCESTER PREPARATORY SCHOOL, WHICH IS LOCATED AT 508 SOUTH MAIN STREET, BERLIN, MARYLAND.
- B. THE MAXIMUM SPEED LIMITS ON MUNICIPAL ROADS IN ANY SCHOOL ZONE SHALL BE THE POSTED SPEED LIMIT.

§ 32-224. DEFINITIONS.

TERMS USED IN THIS ARTICLE ARE DEFINED IN §21-809(A) OF THE TRANSPORTATION ARTICLE OF THE MARYLAND ANNOTATED CODE, AS MAY BE AMENDED FROM TIME TO TIME, SHALL HAVE THE SAME MEANINGS IN THIS ARTICLE.

§32-225. USE OF SPEED MONITORING SYSTEMS AUTHORIZED; ACTIVATION AND OPERATION.

- A. SPEED CAMERA ENFORCEMENT, USING SPEED MONITORING SYSTEMS, IS AUTHORIZED AT LOCATIONS WITHIN SCHOOL ZONES IN THE TOWN.
- B. BEFORE ACTIVATING ANY UNMANNED STATIONARY SCHOOL ZONE MONITORING SYSTEM(S), THE TOWN SHALL:
 - (1) PUBLISH NOTICE OF THE LOCATION(S) OF THE SPEED MONITORING SYSTEM(S) ON THE TOWN WEBSITE AND IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE TOWN; AND
 - (2) ENSURE THAT EACH SIGN THAT DESIGNATES A SCHOOL ZONE INDICATES THAT SPEED MONITORING SYSTEMS ARE IN USE IN SCHOOL ZONES.
- C. THE SCHOOL ZONE SPEED MONITORING SYSTEM MAY ONLY OPERATE MONDAY THROUGH FRIDAY BETWEEN THE HOURS OF 6:00AM AND 8:00PM.
- D. FOR 30 DAYS AFTER THE FIRST SPEED MONITORING SYSTEM IS ACTIVATED IN THE TOWN, A VIOLATION RECORDED BY SUCH SYSTEM MAY ONLY BE ENFORCED BY THE ISSUANCE OF A WARNING.
- E. SUBJECT TO COMPLIANCE WITH ALL APPLICABLE PROVISIONS OF §21-809 OF THE TRANSPORTATION ARTICLE OF THE ANNOTATED CODE OF MARYLAND, THE TOWN MAY:
 - (1) ACQUIRE AND/OR USE SPEED MONITORING SYSTEMS PROVIDED BY A VENDOR FOR SPEED CAMERA ENFORCEMENT WITHIN THE TOWN'S JURISDICTION; AND
 - (2) ENTER INTO APPROPRIATE AGREEMENTS WITH THE VENDOR FOR THE FURNISHING OF SPEED MONITORING SYSTEM SERVICES ASSOCIATED WITH THE SPEED MONITORING SYSTEM ENFORCEMENT PROGRAM.
- F. THE SPEED MONITORING SYSTEM ENFORCEMENT PROGRAM IN THE TOWN SHALL BE CONDUCTED IN COMPLIANCE WITH ALL APPLICABLE PROVISIONS OF §21-809 OF THE TRANSPORTATION ARTICLE OF THE ANNOTATED CODE OF MARYLAND, AS MAY BE AMENDED FROM TIME TO TIME, AND OTHER APPLICABLE LAW.

§32-226. VIOLATIONS AND PENALTIES.

UNLESS THE OWNER OR DRIVER OF THE MOTOR VEHICLE RECEIVED A CITATION FROM A POLICE OFFICER AT THE TIME OF THE VIOLATION, THE OWNER OR DRIVER OF THE MOTOR VEHICLE IS SUBJECT TO A CIVIL PENALTY IN THE AMOUNT OF \$40 IF THE MOTOR VEHICLE BEING DRIVEN IS RECORDED BY A SPEED MONITORING SYSTEM AS BEING OPERATED IN A SCHOOL ZONE IN EXCESS OF THE POSTED SPEED LIMIT, WITH SUCH PENALTY TO BE ASSESSED IN ACCORDANCE WITH §21-809 OF THE TRANSPORTATION ARTICLE OF THE ANNOTATED CODE OF MARYLAND, AS MAY BE AMENDED FROM TIME TO TIME.

THIS ORDINANCE was introduced and read at a meeting of the Town Council held on the _____ day of _____, 2023, and thereafter a statement of the substance of the Ordinance having been published as required by law.

A PUBLIC HEARING was held and this Ordinance was adopted this ____ day of _____, 2023, by the Mayor and Council of the Town of Berlin, Maryland by affirmative vote of _____ in favor, to _____ opposed, with _____ abstaining.

Dean Burrell, Vice-President

Approved on this _____ day of _____, 2023 by the Mayor of the Town of Berlin and was therefore effective twenty (20) calendar days later on the ____ day of _____, 2020.

Zackery Tyndall, Mayor

ATTEST: Mary Bohlen, Town Administrator



MOTION OF THE MAYOR AND COUNCIL 2023-21

A Motion of the Mayor and Council of the Town of Berlin authorizing annual contracts for the following vendors and services as budgeted for Fiscal Year 2024:

- BOOTH AND ASSOCIATES, LLC – Electric Utility Consultant: Not to exceed \$100,000
- CARDS TECHNOLOGY (ICS) – Information Technology Consultant/Contractor: \$72,984:
 - \$47,244 Annual Service Agreement, including Continuity
 - \$10,332 Managed Network
 - \$15,408 Office 365 Licensing
- DAVIS, BOWEN & FRIEDEL, INC. – General Engineering Consultant: Not to exceed \$100,000
- EA ENGINEERING SCIENCE AND TECHNOLOGY, INC. PBC – General Stormwater Consulting: Not to exceed \$100,000
- JARMON’S CLEANING SERVICES – Cleaning Services for Police Department: \$10,400.04
- MD DE RAILROAD – Annual Lease Agreements Approx: \$20,000
- PKS INVESTMENT ADVISORS LLC – Annual Independent Financial Audit: \$43,500
 - \$39,000
 - \$4,500 Single Audit
- SCHAEFER FIREWORKS - \$11,340
- SOUTHERN CORROSION, INC. – Annual Water Tower Maintenance: \$40,040
- TYLER TECHNOLOGIES – Annual Support \$39,000 (not including on-line services fees)
- WORCESTER YOUTH AND FAMILY – Berlin Youth Program: \$40,000
- GLENDA HOLDEN: Cleaning Services for Public Restrooms, , restrooms in Town Hall and Planning, and two kitchens in Town Hall: \$500/two weeks

APPROVED THIS ____ DAY OF _____, 2023 BY THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, MARYLAND BY AFFIRMATIVE VOTE OF ____ TO ____ OPPOSED, WITH ____ ABSTAINING AND ____ ABSENT.

Dean Burrell, Sr. Vice President of the Council

Approved this ____ day of _____, 2023 by the Mayor of the Town of Berlin.

Zackery Tyndall, Mayor, President of the Council

ATTEST: _____
Mary Bohlen, Town Administrator



MOTION OF THE MAYOR AND COUNCIL 2023-22

A MOTION OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN TO APPROVE THE REQUEST FOR PROPOSAL (RFP # 2023-09) BID DOCUMENT AS PREPARED BY DAVIS, BOWEN, FRIEDEL, INC. AND THE LETTER OF INTENT SUBMITTED BY SMITH AND LOVELESS, INC. TO ALLOW PRODUCTION TO BEGIN OF BROAD STREET LIFT STATION EQUIPMENT.

APPROVED THIS ____ DAY OF _____, 20____ BY THE COUNCIL OF THE TOWN OF BERLIN, MARYLAND BY AFFIRMATIVE VOTE OF ____ TO ____ OPPOSED, WITH ____ ABSTAINING AND ____ ABSENT.

Dean Burrell, Sr. Vice President of the Council

APPROVED THIS ____ DAY OF _____, 20____ BY THE MAYOR OF THE TOWN OF BERLIN.

Zackery Tyndall, Mayor, President of the Council

ATTEST: _____
Mary Bohlen, Town Administrator

RFP 2023-09 Broad Street Pump Station Replacement

ADVERTISEMENT

TOWN OF BERLIN
REQUEST FOR PROPOSALS
RFP # 2023-09
Broad Street Pump Station Replacement

Due Date: _____
Time: _____ EST

The Town of Berlin is seeking Proposals for the demolition and abandonment of the existing pump station and building(including asbestos shingles), the removal and disposal of 2 existing sewer manholes, the installation of a packaged pumpstation and station piping, 105 LF of gravity sewer main, 95 LF of sewer force main, 2 sewer manholes, 25 LF of water main, 2" site water service with yard hydrant, a fire hydrant assembly, generator, electrical service, pump station controls, site lighting, and 85 SY of paved driveway. Some work is adjacent to a MD-SHA maintained road and any disturbance to their road will need to be restored per their requirements and standards.

Qualified contractors are encouraged to visit the Town of Berlin website at berlinmd.gov/government/request-for-proposals/ or contact Town Administrator Mary Bohlen at 410-641-4314/ mbohlen@berlinmd.gov for the official RFP. EEO.



RFP 2023-09 Broad Street Pump Station Replacement

GENERAL INFORMATION

NOTICE: Notice is hereby given that proposals will be received by the Town of Berlin, Maryland for the completion of work described herein, by submitting to the Town by the date and time and at the location as indicated herein.

RFP # 2023-09

Broad Street Pump Station Replacement

Due Date: _____

Time: _____ EST

Deliver submittals to:

Mary Bohlen, Town Administrator
Town of Berlin
10 William St.
Berlin, MD. 21811
Attn: RFP 2023-09

The Town of Berlin (the "Town") is seeking Contractor ("Bidder") proposals for demolition and abandonment of the existing pump station and building (including asbestos shingles), and the installation of a packaged pumpstation, and all ancillary work. All upgrades are located in the Town of Berlin, Maryland 21811. Proposals must be submitted to the address above, by the date and time, and in the format indicated herein.

It is the responsibility of potential bidders to thoroughly review this Request for Proposal and ensure their full understanding of the same.

Proposals received after the due date/time will not be considered. Bidders accept all risks of late delivery of emailed, mailed, or shipped submittals regardless of fault.

The Town of Berlin reserves the right to reject any and all submittals and to waive irregularities and informalities in the submittal and evaluation process. This Request for Proposals ("RFP") does not obligate the Town to pay any costs incurred by bidders in the preparation and submission of their proposal. Furthermore, the RFP does not obligate the Town to accept or contract for any expressed or implied services.

It is the Town of Berlin's policy to assure that no person shall, on the grounds of race, color, religion, sex or national origin, as provided by Title VI of the Civil Rights Act of 1964, be excluded from participation in, be denied the benefits of, or be otherwise discriminated against.

The Town is committed to a program of equal employment opportunity regardless of race, color, creed, sex, age, nationality, disability, or sexual orientation. The successful bidder ("Contractor") must comply with the Town of Berlin's equal opportunity requirements.

ABOUT BERLIN: The Town of Berlin is a community of approximately 5,000 people located on Maryland's eastern shore. The Town operates under a Strong Mayor form of government. Berlin provides the following services to the community's residents: police, public works, parks, water, wastewater, stormwater, electricity, economic development, planning, code enforcement, engineering (under contract), and general administration. The Town operates on a one-year budget cycle from July 1 through June 30.



RFP 2023-09 Broad Street Pump Station Replacement

A. SCOPE OF SERVICES

The Town of Berlin seeks to enter into a contract with a qualified Contractor for demolition and abandonment of the existing pump station and building (including asbestos shingles), and the installation of a packaged pumpstation, and all ancillary work for the Town of Berlin's Broad Street Pump Station Replacement Project. All work shall be performed in accordance with the Contract Documents, including this RFP, Drawings, Technical Specifications, and the applicable general requirements of the *Town of Berlin Design and Construction Standards for Water, Sewer, and Roadway Systems*.

B. SPECIFICATIONS

1. Refer to the attached technical specifications for additional information.

C. MINIMUM REQUIREMENTS

1. Work shall be started within 30 calendar days of Notice to Proceed).
2. Contract Time: Work shall be completed within 90 calendar days of start date. Liquidated Damages of \$500 per day shall be charged to the Contractor to cover cost overruns beyond the Contract Time.
3. Contractor is responsible for, at a minimum:
 - a. Notification of appropriate agencies as required by regulations prior to start of work.
 - b. Complete traffic control as required.
 - c. Arrangements for staging of equipment and materials; the Town of Berlin shall assist in determining suitable locations, however, if non-Town owned property is used for staging, it shall be the full responsibility of the contractor to enter into any agreement(s) with property owners, including negotiation and any compensation required.
4. Contractor shall ensure that personnel working on site shall be appropriately supervised to ensure the completion of duties per the contract.
5. Contractor and their personnel shall conduct themselves in a professional manner and shall take reasonable care to ensure the safety and comfort of residents and visitors to the Town.
6. Contractor shall take reasonable care to ensure the cleanliness of the streets, sidewalks, parking areas and other affected areas during deliveries.
7. Workday hours shall begin no earlier than 8:00 AM and shall end no later than 6:00 PM, including set-up and clean-up, Monday through Friday, excluding scheduled holidays. Work outside the hours indicated above shall be done only with the express permission of the Town.
8. All work shall comply with the Code of the [Town of Berlin, Article III Noise, §14-43\(4\)](#).
9. Contractor shall warranty their work for a minimum period of two years (2-years) from project acceptance.
10. In addition to the section indicated above, Contractor shall adhere to all other applicable regulations of the Town of Berlin, State of Maryland and any other entity or agency with authority over projects of this nature.



RFP 2023-09 Broad Street Pump Station Replacement

D. CONTACT INFORMATION

Town Administrator Mary Bohlen
Berlin Town Hall
10 William Street
Berlin, MD 21811
Phone: 410-641-4341
Email: mbohlen@berlinmd.gov

All questions and concerns must be submitted to Ms. Bohlen; information gathered from any other individual, including other employees of the Town unless specified by Ms. Bohlen, may not be used in the preparation of this bid.

It is the responsibility of the bidder to make a full assessment of any factors which will influence the appropriate completion and final cost of the project.

E. MINIMUM REQUIREMENTS FOR CONTRACTORS

1. A minimum of five (5) years' experience with completing municipal sewage pump station projects.
2. Appropriate licensure, certifications, permits required for completion of the project.

F. SUBMITTAL REQUIREMENTS

Dates and times applicable to RFP 2023-09 are on the following page. Responses to RFP 2023-09 must include the following information:

1. Statement of all relevant licensure, certifications and qualifications as applicable for the completion of the project. Proof of such shall be required prior to issuance of Notice to Proceed.
2. A minimum of three (3) references relating to the services being requested with full name, title, address, phone number, email; references from Maryland municipalities preferred.
3. The completed Cost Proposal as included in this RFP.
4. The completed Signature page as included in this RFP.
5. The completed List of Proposed sub-contractors (if applicable) included on the Cost Proposal page.
6. Additionally, bidders are encouraged to submit a narrative describing the expectations for execution of the contract within the Town of Berlin to include:
 - Scheduling of work to include a general idea of progression of work.
 - An estimate of the number of personnel expected to be onsite at a given time.
 - Any specific needs the contractor anticipates.
 - Any other information the bidder feels is relevant for consideration.
7. Printed and electronic or email submittals will be accepted. Regardless of the delivery method, it is the responsibility of the bidder to ensure delivery by the deadline.



RFP 2023-09 Broad Street Pump Station Replacement

8. If printed, the Town encourages double-sided printing where appropriate. Complete submission should not exceed 20 sheets of paper and must be in a sealed envelope addressed to;

Town of Berlin RFP 2023-09
Attn: M. Bohlen, Town Administrator
10 William Street
Berlin, MD 21811

9. If electronic (via USB drive), USB must be clearly labeled: "TOB RFP 2023-09"
10. If via email, send to mbohlen@berlinmd.gov with the subject "RFP 2023-09 Broad Street Pump Station Replacement".

• **PROPRIETARY PROPOSAL MATERIAL:** Any proprietary information revealed in the proposal should be clearly identified as such.

• **SIGNATURES:** Proposal shall be signed by one of the legally authorized officers of said corporation. If awarded the contract, the Contract shall also be so executed.



RFP 2023-09 Broad Street Pump Station Replacement

G. DEADLINES AND IMPORTANT DATES:

(DATE / TIME) EST – MANDATORY Pre-Bid Meeting: Pre-bid Meeting shall be held at Town Hall, 10 William Street, Berlin, MD 21811 and will be followed by site visit(s) if requested.

(DATE / TIME) EST – Deadline to submit questions: Questions from potential Bidders are due via email to mbohlen@berlinmd.gov. Please note: With the exception of questions asked during site visit(s), questions received after this deadline, and questions that are phoned, faxed, sent through regular mail, or submitted via any other method or to any other email address will not be accepted. Oral responses or responses to questions submitted in any other format or to any other person will be non-binding. Individual responses to questions will not be provided; all questions and answers will be compiled into one document to be posted as indicated below.

(DATE / TIME) EST – Posting of responses: Responses to questions from potential Bidders will be posted at the following link by the deadline. It is the responsibility of potential Bidders to visit the website for this information <http://berlinmd.gov/government/request-for-proposals/>.

(DATE / TIME) EST – Due Date for Proposals: Proposals shall be submitted per the Submittal Requirements as indicated on the preceding page(s) and must be received by the deadline, at which time proposals will be publicly opened and read aloud at Berlin Town Hall, 2nd Floor Conference Room, 10 William Street, Berlin, MD 21811. Proposals received after that date and time will not be considered. Regardless of the delivery method, it is the responsibility of the bidder to ensure delivery by the deadline.

H. EVALUATION CRITERIA AND AWARD OF CONTRACT

The following shall be considered in evaluating submissions and awarding a contract:

- Experience of Contractor with similar projects.
- Information acquired from municipal references.
- Overall quality of proposal.
- Project understanding.
- Anticipated project cost.
- Anticipated project schedule.

The Town may select a limited number of bidders for in-person interviews before a selection committee.

The Town reserves the right to reject any and all submittals and to waive irregularities and informalities in the submittal and evaluation process. This RFP does not obligate the Town to pay any costs incurred by bidders in the preparation and submission of their qualifications. Furthermore, the RFP does not obligate the Town to accept or contract for any expressed or implied services.

It is the practice of the Town to make award based on the lowest responsible bid. The Town reserves the right to accept or reject any and all submissions and the right to award contract based on factors other than cost.

• **CONTRACT AWARD:** The Town reserves the right to make an award without further discussion of the submittals. The installer selected as the apparently successful contractor will be expected to enter into a contract with the Town. Following notification of selection, the successful bidder review and execute the Standard Town Agreement. The Town shall not be bound, or in any way obligated, until both parties have executed the agreement. No party may incur any chargeable costs prior to the execution of the final Contract.



RFP 2023-09 Broad Street Pump Station Replacement

- **CONTRACT NEGOTIATION:** The Town reserves the right to negotiate all elements of the submittals, proposals, terms and conditions, and/or scope of work as part of the contract negotiation process prior to any formal authorization of the Contract by the Town.

Unless specifically negotiated and mutually agreed upon, all applicable specifications of this Request for Proposals shall be considered as terms of the contract and shall not be overwritten or eliminated by conflicting language in the actual contract document.

- **EQUAL OPPORTUNITY EMPLOYMENT:** The successful contractor or contractors must comply with the Town of Berlin equal opportunity requirements. The Town of Berlin is committed to a program of equal employment opportunity regardless of race, color, creed, sex, age, nationality or disability.

- **TITLE VI:** It is the Town of Berlin's policy to assure that no person shall, on the grounds of race, color, national origin or sex, as provided by Title VI of the Civil Rights Act of 1964, be excluded from participation in, be denied the benefits of, or be otherwise discriminated against under any of its federally funded programs and activities.

- **INSURANCE REQUIREMENTS:** The Town shall be named as an Additional Insured on the successful bidder's contract. Insurance coverage needs to be in at least the following amounts:

- a. Commercial/General Liability: Each Occurrence - \$1,000,000; medical expenses - \$10,000
- b. Vehicle Liability: \$1,000,000
- c. Workers Compensation: \$1,000,000

The cost of such insurance shall be paid by the contractor.

It shall be the responsibility of the successful contractor to ensure that appropriate insurance is maintained by any subcontractors associated with the project.

- **HOLD HARMLESS:** The Town of Berlin and their consultants shall be held harmless against claims for injuries to persons or damages to property, errors, omissions or professional liability that may arise from or in connection with the performance of work hereunder by the selected contractor, his agents, representatives, employees or subcontractors.

- **NON-ENDORSEMENT:** As a result of the selection of a contractor to supply products and/or services to the Town, the Town does not agree to the contractor's reference to the Town in any literature, promotional material, brochures, sales presentation or the like without the express written consent of the Town.

- **COMPLIANCE WITH LAWS, REGULATIONS, AND POLICIES:** In addition to nondiscrimination and affirmative action compliance requirements previously listed, the contractor or contractors ultimately awarded a contract shall comply with federal, state and local laws, statutes and ordinances relative to the execution of the work and other applicable provisions. This requirement includes, but is not limited to, protection of public and employee safety and health; environmental protection; waste reduction and recycling; the protection of natural resources; permits; fees; taxes; and similar subjects, including satisfaction of any outstanding payables to the Town of Berlin, whether related to the Contractor's business or personal account(s).



RFP 2023-09 Broad Street Pump Station Replacement

Contractor: _____

COST PROPOSAL

Please note: The Town of Berlin is exempt from Maryland Sales Tax – information to be provided upon request as applicable.

The following table should be included within the proposal submission.

ITEM NO.	DESCRIPTION OF WORK	SIZE OR DEPTH	UNIT	EST QTY	UNIT PRICE	TOTAL PRICE
1.	Mobilization, Bonds, and Insurance (Max. 3% of Total Bid)	--	LS	--		
2.	Furnish and Install Sediment and Erosion Control Measures.	--	LS	--		
3.	Traffic Control	--	LS	--		
4.	Bypass Pumping	--	LS	--		
5.	Demolish and Abandon Existing Pump Station and Building (including asbestos shingles)	--	LS	--		
6.	Install Proposed Packaged Pump Station and Station Piping	--	LS	--		
7.	Remove and Dispose of Existing Manhole	--	EA	2		
8.	Remove Existing Sanitary Sewer Gravity Main and Forcemain	--	LF	370		
9a.	Furnish and Install Sewer Manhole	4' DIA.	VF	10		
9b.		5' DIA.	VF	10		
10a.	Furnish and Install Gravity Sewer Pipe and Appurtenances	8" DIA.	LF	15		
10b.		10" DIA.	LF	90		
11.	Furnish and Install Sewer Forcemain and Appurtenances	6" DIA.	LF	95		
12.	Furnish and Install Water Mains, Fittings, and Appurtenances	8" DIA.	LF	25		
13.	Furnish and Install Water Service & Yard Hydrant	2"	LF	84		
14.	Furnish and Install Fire Hydrant Assembly	--	LS	--		
15.	Furnish and Install Generator	--	LS	--		
16.	Furnish and Install Equipment Pad For Generator and Control Panel	--	SY	8		
17.	Furnish and Install Electrical Service and Pump Station Controls	--	LS	--		
18.	Furnish and Install Site Lighting	--	LS	--		
19.	Furnish and Install Graded Aggregate Base	6"	SY	85		



RFP 2023-09 Broad Street Pump Station Replacement

20.	Furnish and Install Asphalt Base Coarse	2"	SY	85		
21.	Furnish and Install Asphalt Surface Coarse	1-1/2"	SY	85		
22.	Furnish and Install Site Gravel	4"	SY	30		
CONTINGENCIES						
23.	Miscellaneous Excavation and Test Pitting	--	CY	5		
24.	Excavation Below Subgrade and Gravel Refill	--	CY	5		
25.	Furnish and Install Select Fill	--	CY	5		
<div style="text-align: right; margin-bottom: 10px;"> Total Base Bid (Items 1 – 25) \$_____ </div> <div> (Written Amount) _____ </div>						



RFP 2023-09 Broad Street Pump Station Replacement

Contractor: _____

Proposed Subcontractors:

Individual/Firm Name and Tax ID Number	Address	Proposed work to be completed

Please attach additional sheet(s) or continue list on reverse if necessary.



RFP 2023-09 Broad Street Pump Station Replacement

Contractor: _____

SIGNATURES

I, the undersigned, am an authorized agent of the firm listed below and am authorized to submit the attached Cost Proposal for the RFP as indicated above. I certify that all information included herein is true and correct to the best of my knowledge. I further acknowledge the conditions and requirements expressed in the RFP and the agreement to adhere to same.

Signature: _____

Date: _____

Printed Name: _____

Firm Name: _____

Tax/EIN: _____

DBA (if different than above): _____

Address: _____

City, State Zip: _____

Phone: _____





Smith & Loveless, Inc.

14040 Santa Fe Trail Drive
Lenexa, Kansas 66215
913/888-5201

SALES AGREEMENT
Page 1 of 4

Town of Berlin, MD

Quotation Date: May 26, 2023
Inquiry Number: 34549
Engineer: Davis, Bowen, & Friedel, Inc.
Job Location: Berlin, MD
Project: Broad St. PS

Smith & Loveless, Inc., having an office at 14040 Santa Fe Trail Drive, Lenexa, Kansas 66215 (hereinafter referred to as "Seller"), hereby agrees to sell to the buyer designated below (hereinafter referred to as "Buyer"), the following equipment subject to all of the provisions set forth in this Sales Agreement. ***The Sales Representative is not an agent or employee of Seller and is not authorized to enter into any agreement on Seller's behalf or bind Seller in any way.***

ONE **SMITH & LOVELESS®** Factory-Built **EVERLAST™** Series 3000 pumping station complete with fiberglass housing and structural steel base suitable for installation on top of a 6'-0" inside diameter wet well opening. The principal items of equipment include two vertical, close-coupled, vacuum-primed, 4", 4B2X*1 Smith & Loveless non-clog pumps, each capable of delivering 255 GPM at 34' TDH with a required static suction lift of 14.4', and each driven by 5 HP, 1200 RPM, 3 phase, 60 cycle, 208 volt motor; valves, 4" internal piping; central control panel with circuit breakers; motor starters and **QUICKSMART™** PLC automatic pumping level controls; priming pumps; ventilator, and all internal wiring.

Station provided with 4" flanged suction connections and 4" plain-end discharge connection with compression coupling.

Standard Equipment Included:

QUICKSMART™ PLC digital control package with color touch-screen with following display functions:

- High water alarm
- Field selectable pump alternation sequence (timed or sequential)
- Individual and totalizing running time meters
- Alarm silence switch with automatic reset
- Prime mode selector – Constant or On-Demand

U.L. NEMA 4 Station Control Panel

SHADE AIDE™ aluminum hood to shield the HMI display from direct sunlight

Float switch back-up level controls

Surge protection device

Hand-off-automatic selector switches

Vacuum priming system

Pump failure/prime failure via common alarm contact

Duplex GFI convenience receptacle

Spare S&L mechanical seal and volute gasket

Spare 24V power supply transformer

10 year enhanced warranty on pump volute and impeller and fiberglass enclosure

5-Year enhanced warranty on **QUICKSMART™** PLC control system

Optional Equipment Items Included:

Transformer (5 KVA)
Low Water Alarm
High Level Alarm Back-Up Float Switch
Low Level Alarm Back-Up Float Switch
Alarm Dialer Interface
Intrinsically Safe Float Relays
Intrinsically Safe Transducer Barrier
Emergency Pump Connection (4")
Circuit breaker and timer for wet well blower by others
Two (2) Suction Pipe Support Braces

Specifically Excluded Items:

Unloading, hauling from nearest unloading area and storage
Excavation, backfilling, grading and all field labor
Concrete, concrete work, grout or grouting
Concrete embedded items
Piping connections or any piping outside the pump station
Electrical wiring and conduit outside the pump station
Unpacking and installation of accessory items, including touch-up painting
Videotaping of startup or training sessions
Any items not specifically included in this Sales Agreement are specifically excluded from Smith & Loveless scope of supply
PLC Program Copy (if applicable)

Smith & Loveless, Inc. will provide one electronic copy of the O&M on CD in PDF format and four hard copies of the O&M. Additional copies can be provided for \$50 per copy.

PRICE, SUBMITTAL DATA & DELIVERY:

\$111,959.00

F.O.B. factory plus any taxes, which may apply. Truck/Rail freight allowed to the job site, rail siding or nearest unloading area-unloading to be by Buyer. Due to the spike in gas prices, which is beyond the control of Smith & Loveless at the time of our quotation/bid, a fuel surcharge may need to be assessed at time of shipment.

We are currently experiencing large increases in the price of materials and components with very little advance notice. Therefore, the sales price of the equipment quoted herein is subject to an escalation in price. Escalation shall be based upon the increase incurred by Smith & Loveless for the material or components in excess of 5% from the time of quote. The escalation shall be calculated as the % increase over 5% of the material/component item and shall include material handling factor and overhead. Such escalation shall be verified through quotes, invoices or receipts from suppliers to Smith & Loveless.

One day supervision of initial operation over one trip is included. If additional days are required, Seller will furnish a **factory-trained supervisor** for \$950 per day including travel time plus actual travel expenses.

With continuing approval of the Smith & Loveless Credit Department, payments terms are 100% Net 30 days from date of shipment, or at time of start-up, whichever occurs first.

Price is firm for 30 days from the date of proposal.

Seller to send Submittal Data for approval 4-6 weeks after receipt of complete details at Seller's factory.

Manufacturing completion is estimated 20-24 weeks after receipt in Seller's office of approved Submittal Data and/or after all notations or comments have been clarified, approved and inserted into the manufacturing documents by the Seller. Variations in the time Submittal Data is returned to Seller and/or

Submittal Data marked approved but which contain contingencies or variations may impact the completion time of the equipment.

Please be advised, delivery quotes are estimates and subject to change based on the current, unpredictable supply chain. Smith and Loveless Inc. cannot guarantee delivery dates, nor accept responsibility for liquidated damages incurred from a late shipment.

ADDITIONAL TERMS AND CONDITIONS

1. GENERAL A. Buyer's execution of this Agreement constitutes Buyer's offer to purchase, on the terms and conditions set forth herein, the equipment described in this agreement, and such offer is irrevocable for thirty (30) days after Buyer executes and delivers to Seller this Agreement together with all necessary engineering data and information. Prices are firm for thirty (30) days after the bid date provided a firm order is received at the factory within that time period and provided approved Submittal Data is received at the factory within forty-five (45) days from the date submittals are forwarded from the factory. In the event firm orders and Submittal Data are not received by Seller within the times set forth above, then price and delivery estimates may change due to changes in the costs of material and labor and/or factory capacity at the time when the firm orders or approved Submittal Data is received by Seller. Seller reserves the right to amend this Sales Agreement if not signed and returned within thirty (30) days from the quotation date. In the event we are unable to ship within estimated period for reasons beyond our control, including a request by the Buyer to defer shipment, the prices are subject to adjustment to those prevailing at the time of shipment.

B. THIS AGREEMENT IS NOT BINDING ON SELLER UNLESS SIGNED ON SELLER'S BEHALF BY AN OFFICER OR MANAGER OF SELLER.

C. This Agreement constitutes the entire contract between the parties with respect to said equipment (any prior agreement, representation, covenant or warranty, written or oral, being superseded hereby) and may not be amended or modified except by a written instrument duly executed by both parties, the provisions of any purchase order or other document submitted by or on behalf of Buyer to the contrary notwithstanding.

D. All notices hereunder are to be in writing and mailed postage prepaid to the party being notified at the address indicated in this agreement or at such other address as may be designated in writing.

E. Remedies provided for herein are cumulative and are in addition to all other remedies as may be available at law or in equity.

F. This Agreement is governed by and subject to the laws of the State of Kansas and the Buyer by executing this agreement agrees to submit to the Jurisdiction of the State of Kansas and the venue for any disputes between the parties will be in the District Court of Johnson County, Kansas, or the Federal District Court of Kansas.

2. NOTICE TO PROCEED- Return to Seller of approved Submittal Data or notification to Seller that the submission of submittals will be waived, constitutes notice to Seller to proceed with manufacture. In the event Seller does not receive approved Submittal Data within forty-five (45) days after Seller's submission of submittal data for approval, then Seller reserves the right to amend price and delivery of the equipment being sold. Final approved Submittal Data means approval by Buyer (or Buyer's representative) of Seller's Submittal Data and/or after all notations or comments have been clarified, approved and inserted into Seller's manufacturing documents at which point Seller's estimated completion schedule commences. Variations in the time Submittal Data is returned to Seller and/or Submittal Data marked approved but which contain contingencies or variations may impact the completion time of the equipment. Seller agrees to furnish only the equipment included in Seller's quotation and/or as described and modified in the Submittal Data. Approval of the Submittal Data constitutes acceptance of the equipment in the configuration described therein. If Seller is directed to change the scope of the equipment after notice to proceed to manufacture, then Seller reserves the right to amend the price and delivery of the equipment.

3. EXCUSED PERFORMANCE- Seller is not liable for any failure or delay in performance hereof, with respect to delivery or otherwise, if such failure or delay is due to any cause beyond Seller's control including, but not limited to, any Act of God, war, civil disturbance, riot, labor difficulty, factory capacity, fire, other casualty, accident or supplier's failure or inability to perform.

4. CREDIT APPROVAL- The credit terms specified herein are subject to Seller's continuing approval of Buyer's credit and if, in Seller's sole judgment, Buyer's credit or financial standing is impaired as to cause Seller to deem itself insecure, Seller may withdraw the extension of credit and require other payment terms.

5. PAYMENT- Subject only to any credit terms, which Seller may extend, the total purchase price hereunder is due at such time, within or after the estimated shipment period specified herein, as said equipment is ready to be shipped. Buyer shall pay in full all invoices within the time for payment specified therein and Buyer's payment obligation is in no way dependent or contingent upon Buyer's receipt of payment from any other party. Any balance owed by Buyer for thirty (30) days or more after the same becomes due is subject to a 2% per month delinquency charge until paid. In addition to all other amounts due hereunder, Buyer shall reimburse Seller in full for all damages, costs and expenses, including reasonable attorneys' fees, which Seller may incur with respect to Buyer's breach of this Sales Agreement or the collection of past due amounts from Buyer. If Buyer is in default under this or any other agreement with Seller, Seller may, at its option, defer performance hereunder until such default is cured.

6. SECURITY INTEREST- Until all amounts due hereunder have been paid in full, Seller has a security interest in said equipment and has all rights of a secured party under the Uniform Commercial Code including, without limitation, the right to take possession of said equipment without legal process and the right to require Buyer to assemble said equipment and make it available to Seller at a place reasonably convenient to both parties. At Seller's request, Buyer shall execute any financing statement or statements submitted by Seller in order that Seller's security interest in said equipment may be perfected.

7. WARRANTY & LIABILITY- Seller warrants only that said equipment is free from defects in materials and workmanship as set forth in Seller's standard Certificate of Warranty furnished to Buyer at the time of final shipment. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR DESIGN AND WHICH ARE EXPRESSLY DISCLAIMED BY SELLER. Seller's sole responsibility with respect to any equipment which proves to be defective as to materials or workmanship is either to replace or to repair the same as is set forth in said Certificate of Warranty. Unless authorized in writing by Seller, Seller is not responsible for any charge or expense incurred for

the modification, servicing or adjusting of said equipment after the same has been delivered to Buyer. Seller is not liable in association with its warranty or in any other capacity for any consequential, incidental or liquidated damages, late fees/damages or penalties.

8. CLAIM PERIOD- Buyer shall immediately inspect said equipment upon receipt thereof and immediately notify the carrier of any damage, shortage or other nonconformance. Seller is not obligated to consider any claim for damages, shortages or non-conformance unless notified by Buyer within ten (10) days after Buyer's receipt of said equipment.

9. CANCELLATION- Should Buyer cancel this agreement without Seller's prior written consent, Seller may, at its option, recover from Buyer a cancellation charge of not less than 20% of the purchase price hereunder. This cancellation charge is intended to compensate Seller for difficult-to-calculate economic losses, including but not limited to, material and labor costs, as well as loss of anticipated profits suffered due to cancellation.

10. SEVERABILITY – If any provision or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

11. STORAGE- If at such time, within or after the estimated shipment period specified herein, as Seller notifies Buyer that said equipment is ready to be shipped Buyer requests a delay in shipment, Seller may, at its option, agree to store said equipment for a period of time determined by Seller, provided that such agreement will not affect Buyer's obligation to pay in full all invoices as they become due, and provided further that for each month, or portion thereof, said equipment is so stored by Seller, Buyer shall pay to Seller as a storage fee an amount equal to 2% of the purchase price.

12. DRAWINGS, ILLUSTRATIONS AND MANUALS- Catalog and proposal drawings, bulletins, and other accompanying literature are solely for purpose of general style, arrangement and approximate dimensions. Seller may make any changes Seller deems necessary or desirable. Submittal for approval, if required, will be made after receipt of complete information from Buyer. Unless otherwise specified at the time of quotation, six sets will be furnished. Additional sets are at \$25.00 per set. Installation, maintenance and operation manuals will be furnished in the number of copies specified at the time of quotation. If none specified, four will be provided at no added cost, with additional copies at \$50.00 each.

13. PERMITS, LICENSES- Buyer at its sole cost and expense shall obtain all building or other permits or licenses with respect to the installation and operation of said equipment required by any federal, state or local governmental body.

14. PATENT INDEMNIFICATION- Seller shall, at its own expense, defend any suit instituted against Buyer, based on any claim that equipment furnished hereunder infringes any Letters Patent of the United States, and Seller shall pay any damages assessed against Buyer in any such suit, provided that Buyer, upon service of process upon Buyer, gives to Seller notice in writing of the institution of such suit, and permits Seller, through counsel chosen by Seller, to defend the same, and gives Seller all information in Buyer's possession and reasonable assistance and authority to enable Seller so to do. Seller shall have no liability or obligation to Buyer for patent infringement resulting from compliance by Seller with written instructions or specifications of Buyer concerning the structure, operation, material, or method of making equipment furnished hereunder.

Agreed to this _____ day of _____, _____

Buyer

By _____

Print Name

By _____

Authorized Signature

Physical Address

Email Address

Is this purchase tax exempt? Yes _____ No _____

If **YES**, attach Sales Tax Exemption Certificate. Failure to provide tax exempt certificate prior to shipment will result in Buyer being responsible for all applicable taxes.

Agreed to this _____ day of _____, _____
at Lenexa, KS.

SMITH & LOVELESS, INC

By _____

Authorized Signature

Prepared by _____

Sales Representative

NOTE: The Sales Representative is not an agent or employee of Seller and is not authorized to enter into any agreement on Seller's behalf or to bind Seller in any way.



STAFF REPORT

TO: Mayor and Council

FROM: Jamey Latchum, Water Resources Director

MEETING DATE: June 26, 2023

SUBJECT: Broad Street Lift Station Equipment

SUMMARY

The Town of Berlin Water Resources Department is seeking approval from the Mayor and Council to authorize the Letter of Intent permitting the start of production on the Broad Street Lift Station Equipment Upgrade. Approval would allow production to begin prior to moving forward with the formal bid process for the project and awarding a contractor to complete the remainder of the work necessary. Granting this approval would save six to eight weeks of the project timeline toward completion and lock in the purchase price of the lift station equipment.

In addition, the Water Resources Department has received the proposed bid document, Request for Proposal (RFP) # 2023-09, from Davis, Bowen, and Friedel, Inc. which is included with this Staff Report. We are asking for the Mayor and Council to review and approve the document in order to continue with the RFP process.

FINANCIAL IMPACT

There would be no financial increase to the Town of Berlin until the contract is awarded.

OPTIONS FOR CONSIDERATION

None.

STAFF RECOMMENDATION

Approve the Letter of Intent and Sales Agreement from Smith & Loveless.
Approve RFP #2023-09 Broad Street Pump Station Replacement.

Jamey Latchum
Town of Berlin, MD



MOTION OF THE MAYOR AND COUNCIL 2023-XX

A Motion of the Mayor and Council of the Town of Berlin to approve AMENDMENTS TO THE EMPLOYEE HANDBOOK as indicated below:

SECTION(S)	APPROVED ON (DATE)	FOR	AGAINST	ABSTAIN	ABSENT
1 AND 2	11/28/2022	5	0	0	0
4, 5, AND 8					

Dean Burrell, Sr. Vice President of the Council

Final approval this ____ day of _____, 20____ by the Mayor of the Town of Berlin.

Zackery Tyndall, Mayor, President of the Council

ATTEST: _____
Mary Bohlen, Town Administrator

SECTION 4 COMPENSATION AND PAY PRACTICES

4.01 Pay Periods

All employees will be paid on a biweekly schedule. The work week will run from Monday through the following Sunday of each week, and the pay period will cover two (2) work weeks. Time records shall be submitted to the Department Head at the start of work on Monday for the previous work week. After reviewing the time records for their department, the Department Heads shall summarize the hours worked by the department's employees for the previous two-week period on the forms [provided and](#) submit the summary to the Human Resources Director by ~~4:00 PM~~ [10:30 AM/12:00 PM \(noon\)](#) on the Monday preceding the Friday of paycheck issuance. [Notice will be given for adjustments to that schedule, due to holiday schedules or other conflicts.](#) All time records must be verified by the employee and approved by the Department Head.

All nonexempt employees are required to complete an individual time record showing the daily hours worked. Time records cover one workweek and must be completed by the end of each shift. The following points should be considered in filling out time records:

- [Employees](#) should record their starting time, quitting time, and total hours worked for each workday.
- [Employees](#) are not permitted to begin work before their normal starting time or stop work after their normal quitting time without the prior approval of their supervisor.
- [Employees](#) are required to take scheduled lunch or meal breaks:
- [Employee](#) time records should be checked and approved by the supervisor involved.
- [Unworked](#) time for which an employee is entitled to be paid (paid absences, paid holidays, or paid vacation time) should be entered and approved by the supervisor on the time record. Authorized overtime also should be identified by the supervisor.
- [The](#) punching and/or filling out of another employee's time record or the falsifying of any time record is prohibited and shall be grounds for disciplinary action, up to and including termination.

4.02 Paydays

Paychecks will [typically](#) be issued on Friday mornings of pay weeks; [adjustments may be made to that schedule, due to holiday schedules or other conflicts.](#) ~~If a regularly scheduled payday falls on a holiday, paychecks will be distributed the day before the scheduled holiday.~~

Paychecks will only be released to the Department Head or [their designee/department representative](#). Department representatives will be expected to sign acknowledging receipt of paychecks.

4.03 Payroll Deductions

Some regular deductions from the employee's earnings are required by law; other deductions are specifically authorized by the employee. The Town will withhold from the employee's paycheck those deductions required by law and pension plan contributions. Voluntary deductions authorized by the employee and deemed appropriate by the Town including but not limited to, insurance premium payments, Section 125 contributions, or other voluntary benefits may be withheld.

Involuntary deductions, for example, wage-garnishments, and changes to involuntary deductions withheld from an employee's paycheck shall follow guidelines as established by the State of Maryland Comptroller's Office. Notification of involuntary deductions shall be provided to the employee immediately upon employer acknowledgment, no later than 14 calendar days prior to the start of the deduction.

4.04 Payroll Records

The official payroll records are kept by the Finance Department. Each Department Head shall submit an approved time record, including compensatory time, for each employee within their department, noting hours worked, leave taken, and overtime worked during the pay period.

4.05 ~~Classification~~Step-and-Grade System

The Town will develop and maintain a ~~Classification~~Step-and-Grade System for all employees and will review that system periodically. The rate of pay ranges for each covered position will be specified in that individual job description. Any annual Cost of Living Adjustments will be incorporated and must be approved by the Mayor and Council.

Except for entry-level positions, an employee may be hired at a rate of pay that is lower than the normal pay rate for a position. In such cases, the employee will advance to the normal rate of pay for the position once the employee has successfully completed a probationary period as further described in Section 1.03.343. Future raises for that employee will normally be considered as noted below.

4.06 Pay Increases

Except if approved in writing as a condition of employment, all new employees, transferred employees, or promoted employees shall remain at the salary base pay rate level at which they were hired for a period of one (1) year from the date of hire.

~~, except when across the board increases are approved by the Mayor and Council.~~ All pay increases, including Cost of Living Allowance (COLA) increases when approved, will become effective at the start of the fiscal year unless otherwise approved by the Mayor as a promotion, advancement, or job reclassification for the position. If a newly hired employee is no longer in their probationary period and a COLA increase is approved by the Mayor and Council then the employee would be eligible for that increase. ~~All pay increases that are part of the annual budget process will become effective at the start of the fiscal year unless otherwise approved by the Mayor as a promotion, advancement, or change in job classification for the position in question. Cost of Living Allowance increases will be effective when approved by the Mayor and Council.~~
~~in question. Cost of Living Allowance increases will be effective when approved by the Mayor and Council.~~

~~Except if approved in writing as a condition of employment, all new employees shall remain at the salary level at which they were hired for a period of one (1) year from the date of hire, except when across the board~~

increases are approved by the Mayor and Council during the course of adopting the budget for each fiscal year. ~~All pay increases will become effective at the start of the fiscal year unless otherwise approved by the Mayor as a promotion, advancement, or job reclassification for the position in question. Cost of Living Allowance increases will be effective when approved by the Mayor and Council.~~

4.0607 Overtime

For the purposes of determining overtime eligibility and in accordance with the Fair Labor Standards Act (FLSA) regulations, all Town positions are designated as either “exempt” or “non-exempt” as further defined in Section 1. ~~from when determining eligibility for~~ earning overtime compensation.

Regular full-time non-exempt employees are entitled to overtime compensation for hours worked over 40 hours paid per week. Regular part-time and temporary employees are entitled to overtime compensation for hours worked over 40 hours per week, unless approved in writing by the Town Administrator.

When computing overtime, vacation, sick, holiday, personal, compensatory ~~comp. time used~~, and miscellaneous leave used will count towards the calculation of overtime eligibility.

4.0708 Emergency Call-Out

The Police Department shall serve as the after-hours emergency contact for all other Town departments and shall direct the emergency to the applicable department according to a call-out list for each department and type of emergency to be provided by the Department Head from time to time.

All employee(s) who are required to carry a cellular telephone by the terms of these regulations or as determined by the Department Head or supervisor shall utilize those telephones in a conscientious fashion by having the cellular telephone in their possession and operational at all times when required to do so by duty assignment or direction of the supervisor or Department Head. Repeated failure to respond to a work-related call when on stand-by or other required off-duty hours may be subject to disciplinary action up to and including termination.

Required response times, when applicable to any given position, will be set forth in that individual job description.

Field personnel other than police officers who respond to a bona fide emergency call-in during otherwise off-duty hours will be paid overtime for the actual time spent, or for a minimum of three (3) hours, whichever is greater. That 3-hour minimum shall apply equally whether an employee is on stand-by duty as described above, or who responds to an emergency call but is officially off-duty otherwise. The three-hour minimum is rule does not apply to time worked that adjoins the normal work schedule.

Specific overtime practices may be developed by the Department Head with the approval of the Town Administrator for reoccurring scheduled events or activities, such as after-hours meetings, may be or special community events (i.e., festivals, parades).

In the event that a Department Head, subject to the approval of the Town Administrator, determines that an employee has responded to a non-emergency solely for the purpose of incurring overtime, such overtime may be disallowed, and the employee may be subject to disciplinary action up to and including termination as the situation may warrant.

*** Working on developing a policy that addresses on-going on-call rotating schedules and possible additional compensation (worchester county does \$200/week or \$28/day)

4.0809 Compensatory Time

Employees entitled to overtime pay may request to receive compensatory time off instead of a cash payment with the approval of the Department Head. If the compensatory time option is exercised, the employee is credited with one and one-half times the hours worked as overtime.

Maximum accruals of compensatory time shall be limited to 240 hours for all ~~non-exempt~~classified employees except law enforcement officers, who may accrue up to 480 hours. Cash overtime compensation shall be paid for overtime hours that exceed the maximum limit of compensatory time allowable by law.

~~Every effort will be made to utilize C~~compensatory time ~~shall be utilized~~ before all other forms of paid time off with the exception of sick leave.

Requests to use compensatory time which are submitted with sufficient advanced notice shall be approved by the Department Head unless the Department Head determines that doing so would unduly disrupt the department. Department Heads may require an employee to take compensatory time off to reduce balances.

It is the responsibility of the Department Head to schedule compensatory time off, whenever the department's schedule permits, to reduce compensatory time balances by granting an employee's request to take accrued compensatory time off or by requiring compensatory time be taken off.

Upon termination of employment, employees will be compensated for any unused compensatory time at the employee's rate of pay current with the termination.

4.0910 Travel Reimbursements

It is the policy of the Town of Berlin that business travel must be approved in advance and should be engaged in and reimbursed according to the guidelines in this Section.

Department Heads or supervisors must approve any employee travel in advance and submit that written recommendation to the Town Administrator. The Town Administrator shall have the authority to determine the necessity of official travel.

Written travel recommendations must be provided at least three weeks before the travel date, or as soon as practical, and include the following:

1. Purpose
2. Copy of class schedule or seminar agenda
3. Itinerary
4. Costs

Costs of an approved trip that are determined by the Town Administrator to be unreasonable or unwarranted for that trip will not be approved.

Employees are expected to use the most reasonable mode of transportation available, book the least expensive fares, and stay in and eat at moderately priced establishments.

Employee expenses for pre-approved travel will be paid or reimbursed when properly documented by the employee, reviewed by the supervisor, and approved by the Department Head or Town Administrator. Should travel occur in the month of June the employee must make every effort to submit requests for reimbursement prior to June 30th of that fiscal year.

Time spent traveling away from home on approved Town business during normal working hours is considered hours worked for pay purposes, and should be shown as such, with accompanying explanation on the employee's time record. Unless authorized, all travel time shall be reimbursed at a straight time rate.

Employees traveling on Town business are representatives of the Town and are expected to maintain a high level of professionalism and follow the Town's policies and rules while on such business.

Accommodations

When overnight accommodations are required a Town credit card shall be utilized to pay for the room and any parking-related charges. If a Town credit card is not available, employees may obtain a cash advance and pay for accommodations by submitting a written request approved by the Town Administrator to the Finance Director at least two weeks in advance of the date of travel. No other charges from the hotel/motel shall be placed on the billing statement, (such as room service, phone charges, movies, etc.). Each Town employee traveling on authorized business shall have separate room accommodations. **Reimbursement for overnight travel is available only when the employee is traveling more than 50 miles from the Town unless otherwise approved by the Town Administrator**

Meals and Incidentals

Town of Berlin employees traveling to an authorized function will be reimbursed for meals and incidentals on a per diem basis when meals are not included as part of the authorized function. No receipts are required for reimbursement under the per diem method. Meals included in the registration fee or official function or otherwise furnished at no additional cost will not be eligible for per diem.

Per diem shall be paid at a rate that is established by Government Services Administration (GSA.gov):

- The employee must submit a printout of their per diem page and attach it to their expense form
- The employee will use either the "Specific Rate" for a specific city/town as listed or if the city/town is not listed then the employee will use the "Standard Rate".

Per diems may be advanced. An Expense Form must be approved by the department director, or if it is a request for a department director, by the Town Administrator, and submitted to the Finance Department at least two weeks prior to the date of travel.

Should circumstances change or all or a part of the planned travel does not occur then all or whatever portion of the advancement will need to be paid back to the Town.

Mileage

Employees using their personal vehicle for travel related directly to Town business will be compensated at a per-mile rate equal to the reimbursement rate established by the Internal Revenue Service (IRS) for each mile traveled, upon presentation of a travel reimbursement expense accompanied by printed directions with starting and ending locations and the total number of miles related to those directions. form showing odometer readings from start to end of such official travel.

All other reasonable expenses of official travel such as tolls will be completely reimbursed to the employee upon presentation of receipts or other adequate documentation of the expense along with a travel expense in a form acceptable to the Finance Director. All travel expenses must be approved by the Town Administrator. In the case of expense forms submitted by the Town Administrator, such expenses must be approved by the Mayor or a Councilmember.

4.1011 Town Issued Credit Card/Gas Card Usage and Reporting

This procedure outlines the process and steps to follow for issuing, purchasing, reporting, and securing credit cards and gas credit cards held by employees of the Town of Berlin. This procedure addresses duties and responsibilities for each area.

Issuing Credit Cards

Department Heads will request the issue of a credit card and/or gas card from the Finance Director. Approval will be granted by the Town Administrator.

The limit for credit card spending is set by the employee's need for access to immediate purchase. The pre-approved levels are as follows:

Town Administrator	\$10,000
Department Heads	
Deputy Town Administrator	\$5,000
Finance	\$5,000
Human Resources	\$5,000
Planning & Zoning	\$5,000
Public Works	\$5,000
Water Resources	\$5,000
Police	\$5,000
Power Plant	\$5,000
Electric Distribution	\$5,000
Economic and Community Development	\$5,000
<u>Superintendents and designated Administrative Assistant(s) - \$1,000</u>	

When an exception to the preset limits is deemed necessary, a letter of explanation will be sent to the Town Administrator by the Department Head requesting approval. If approved, the Town Administrator will forward this approval to the Finance Director for an increase or to request an additional card. The Finance Director will

keep a listing of employees with credit cards and the credit card limit. A [Sales Tax-Exempt](#) Card will be issued with each credit card.

Purchasing

Credit cards are to be used for purchasing goods and services directly related to the operation of the Town of Berlin. Purchases must be conservative and only made when it is not efficient to request a check from the Finance Department or when emergency situations arise.

The following list is a set of purchases that may not be made with a credit card. This list is not inclusive and when an employee is unsure if a purchase is allowable, they should seek guidance from their supervisor or the Finance Department.

- Alcohol;
- Goods or services only for personal use;
- Entertainment;
- Fuel for personal vehicles;
- Cash Advances;
- Tuition reimbursement as covered under Section 6.10 titled Job-Related Education;
- Purchases not directly related to the operation of the Town of Berlin.

Reporting

Purchases made with a credit card/gas card do not receive the prior written documentation that is required by the Town of Berlin; credit card/gas card purchases are instead documented at the end of each billing cycle when a statement is issued by the credit card company. The following is the process of documentation by responsible area:

Finance Department

- A. Accounts Payable [personnel](#)~~Specialist~~:
 - 1. Receives the completed documentation and prepares payment for the credit card/gas card company and sends payment within seven calendar days of documentation receipt.
- B. Finance Director:
 - 1. Reviews credit card statements and related documentation for accuracy and compliance with this policy.
 - 2. Contacts employee if further documentation is necessary.
 - 3. Maintains a list of late payments.
- C. Credit Card/Gas Card Holder – Employee:
 - 1. Maintains detailed receipts for each purchase made during the billing cycle.
 - 2. Reviews the monthly credit card statement for accuracy of charges.
 - 3. Contacts the credit card company for disputed charges and obtains dispute documentation.
 - 4. Prepares the credit card statement documentation in the following manner
 - a. Each original purchase receipt is adhered (taped, glued, stapled, etc.) to a sheet of 8½"x 11" plain paper.
 - b. Next to the receipt, the reason for the purchase is annotated.

- c. If sales tax was paid, the reason for the tax is annotated on the page.
 - d. If the receipt is for travel (motel bills, meals, transportation, etc.) the reason for the travel is annotated and any conference or agenda documentation is attached.
 - e. If the receipt is for local meals, the list of attendees and the meeting agenda must be annotated. Also, the receipt must be detailed – a generic summary will not be accepted.
 - f. If a charge is disputed, documentation from the credit card company and the reason for the dispute must be documented.
 - g. If a receipt for a gas credit card the cardholder must annotate their name on each receipt.
5. Signs the bottom of the credit card statement (even if no charges are made).
 6. Prepares or completes a ~~Purchase Order~~ Requisition (if charges were made) ensuring that each charge is allocated to the proper cost center and account number
 7. Forwards the credit card statement, ~~Purchase Order~~ with the requisition number noted (if charges were made) with documentation to the Town Administrator

D. Town Administrator

1. Reviews credit card/gas card documentation for accuracy, allowable charges, and proper receipts.
2. Forwards credit card/gas card documentation to the Finance Department for payment at least seven days prior to the due date.
3. Will be responsible for reviewing all training charges made on credit cards and confirming prior to approval.

Failure by the credit card holder to submit statements and receipts in a timely manner resulting in two or more late charges from the credit card company will result in the suspension of the employee's credit card and the employee will be responsible for the late fees.

E. Human Resources Director

1. At termination of employment, will ensure that credit card/gas card is secured, and all card charges have cleared prior to issuing final payment of salary and benefits.
2. At approval of a leave of absence, retrieve the credit card/gas card prior to the employee's leave and return the card upon reinstatement.

Security

Credit cards will be kept in a secure manner at all times. Credit cards should not be left in offices or areas accessible to others.

Credit cards will only be used by the authorized user. Lending out credit cards to co-workers or subordinates is not allowable.

Compliance

This policy provides the necessary guidance for the Town of Berlin credit card/gas card usage.

Repeated offenses of not following the direction as outlined in this policy will result in credit card/gas card privileges being revoked by the Town Administrator. Any employee who exploits the use of a Town issued credit card/gas card beyond the intent of the established policy will face disciplinary action up to and including

termination of employment. The Mayor will serve as the oversight for the Town Administrator whereas the Town Administrator will comply with this and all established policies.

1. Charges made on credit cards that are not allowable will be reimbursed by the employee to the Town of Berlin.
2. Employees are required to sign this policy ensuring that the above guidelines are understood.
3. At the time of employment termination, any unallowable charges on the Town credit card/gas card will be deducted from the employee's final pay check.

4.1412 Cellular Telephone Reimbursement

As a general rule, the Town of Berlin shall not own or otherwise provide cellular telephones to its employees. However, the Town does recognize that certain employees may need to use cellular telephones to conduct legitimate Town business. In these cases, effective February 1, 2009, the Town will provide a cellular telephone reimbursement for employees who are required to use their personal cellular telephones for work purposes, subject to the following conditions:

- The Town Administrator must first authorize the employee to use their own personal cellular telephone for Town business. An acknowledgment form shall be signed by the employee, Department Head, and Town Administrator with a copy retained by both the employee and the Town. The authorization form will identify the employee, department, and the employee's acknowledgment of this policy.
- The Town will pay an allowance of up to \$50.00 per month for cellular phone service. This reimbursement amount will be reviewed annually to ensure the amount is adequate to pay expenses incurred in maintaining a wireless plan. Requests for cellular telephone reimbursements must be presented to the Finance Department on an expense report signed by the employee and Department Head. Requests for cellular telephone reimbursements must be submitted by the end of the fiscal quarter in which the expenses occurred.

END OF SECTION

Commented [MB58]: This whole section may be changing if the Town goes to an issued cellphone. I think if we move forward with presenting this to the M&C in June, we make a notation to this section that it is under further review.

SECTION 5 HOURS AND ATTENDANCE

5.01 Work Hours

It is the policy of the Town of Berlin to establish the time and duration of working hours as required by workload and production flow, customer service needs, the efficient management of human resources, and any applicable law. Working hours and shift configuration for departments will be determined by Town Administrator and/or Department Head as needed.

~~Employees who are in an on-call status are required to carry a communication device (i.e. cellular telephone, 2-way radio) as determined by the Department Head.~~

Commented [KJ59]: Will address when we develop the on-call policy

5.02 Attendance

It is the policy of the Town of Berlin to require employees to report for work punctually and to work all scheduled hours and any required overtime. Excessive tardiness and poor attendance disrupts workflow and customer service and will not be tolerated.

Supervisors should notify employees of their starting, ending, and break times. Employees are expected to be ~~engaged in carrying out their duties during all scheduled work time and should be ready to begin working at their scheduled starting time on-site and preparing for their workday as appropriate.~~

Employees should notify their supervisor of unexpected absences or tardiness as far in advance of the beginning of their designated starting time as possible. The Department Head shall determine the appropriate method of notifications. Whenever possible, employees should notify their supervisor as soon as possible if an unexpected need to leave work early occurs. Such notification should include a reason for the absence or tardiness, and an indication of when the employee can be expected to report for work. If the supervisor or their designee is unavailable, notification should be made to the Human Resources Director. If the Human Resources Director is unavailable, notification should be made to the Town Administrator. When appropriate, the supervisor should counsel the employee on the importance of good attendance and warn that excessive tardiness or absences will lead to discipline, up to and including termination.

Employees will not be required or permitted to work any period of time before or after scheduled starting or quitting times for the purpose of making up time lost because of tardiness, unauthorized absence, authorized absence, or any other reason if the result will be that the employee works more than forty hours during the work week. Employees who are habitually late reporting to work, whether at the beginning of the shift or after a break, are subject to disciplinary action.

Unauthorized or excessive absences or tardiness will result in disciplinary action, up to and including termination. An absence is considered to be unauthorized if the employee has not followed proper notification procedures or the absence has not been properly approved. Excessive absences, tardiness, or early departure more than three times in a three-month period generally are grounds for discipline.

Employees who are absent from work for two consecutive days without giving proper notice will be considered as having voluntarily quit. At that time, the Town will formally note the termination and advise the employee of the action by certified mail to the employee's last known address.

Employees who report for work without proper equipment or in improper attire may not be permitted to work and would be required to use the appropriate leave. Employees who report to work in a condition considered not fit for work, whether for illness or any other reasons, will not be allowed to work and would be required to use the appropriate leave.

In the interest of community participation in vital services, with approval from the Department Head, employees will be authorized to donate blood without using leave for one hour per occurrence up to six occurrences per year. The employee will be required to furnish proof that they were donating blood on that date and time.

Employees who abuse leave policies by providing false or misleading information about reasons for absence are subject to disciplinary action.

42. Breaks and Meal Periods

All breaks from work including meal periods shall be scheduled by the Department Head so that they do not interfere with Town business or service to the public. The scheduling of meal periods may vary depending on department workloads. Meal periods are unpaid. Employees required to remain on the job or remain at their post during the meal period or granted a meal period of less than 30-minutes will be compensated for the meal period.

Breaks from work other than meal periods may not be used to shorten the workday, lengthen the meal period, or exceed 20 minutes per day.

43. Light Duty

When an employee who has been injured or ill is released to return to work with specific work restrictions, with physician verification, light or restricted duty may be provided requested by the employee, if available, the Town may permit the work accommodation; the Town would not be required to create an accommodation to meet the employee's needs. when an employee who has been injured or ill is released to return to work with specific work restrictions by a physician.

The Town reserves the right to require examination by a physician of the Town's choice, at the Town's expense, to determine the ability of the employee to return to work after an on-the-job injury or illness.

Absent extraordinary circumstances, light-duty work, if available, may be provided for up to a maximum of six months unless specifically authorized by the Mayor. If the light-duty assignment expires and the employee is not released to return to full duty, the employee may request a leave of absence in accordance with Section 6, or transfer to an available job that meets the employee's restrictions. If the employee is not eligible for leave or a leave request is denied, and no job is available for transfer, the Town would not be required to create an accommodation to meet the employee's needs. Therefore, the employee may resign from Town employment or be terminated from Town employment.

The Town reserves the right to require examination of an employee by a physician of the Town's choice, at the Town's expense, to determine their ability to return to work after an injury or illness.

An employee who refuses available light-duty that complies with restrictions set forth by a physician is not eligible to receive compensation under Workers' Compensation or any other paid leave and may be subject to disciplinary action.

44. Inclement Weather and Emergency Conditions

In case of inclement weather or emergency conditions, employees are expected to report to work unless otherwise notified by a public announcement or the Mayor (or designee) that the Town offices are closed or that a liberal leave policy is in effect. Essential, standby, and non-essential employees are designated by the Department Head. Any delayed starting times for Town facilities due to inclement weather or emergency situations shall be announced and shall be subject to the Town's liberal leave policy unless otherwise specifically specified in the media announcements.

Essential employees are required to report to work regardless of conditions or closings. Standby employees are required to be ready and available to report to work upon being notified to do so regardless of conditions or closings. Non-essential employees are not required to report for work or remain on standby unless otherwise advised by their supervisor or Department Head. Public Works Department Director and the Superintendent, the Water Resources' Director and the Superintendents, the Electric Utility Director and the Superintendents, and the Chief of Police, are all considered standby employees. Employees who work as required during emergencies will be compensated for time worked under normal compensation rules.

If Town offices are closed due to inclement weather conditions Monday-Friday, and the liberal leave policy is not in effect, full-time employees who could not work due to the closing will be paid for normal daily scheduled work hours. Employees who work or are scheduled off work on the day the offices were closed will be paid for the number of hours that Town offices were closed between 8:00 a.m. and 5:00 p.m., Monday through Friday, in addition to hours worked. Hours paid due to an emergency closing will be paid at straight time and will not count toward overtime. Part-time employees will be paid for scheduled hours normally worked according to the provision as outlined above. Employees using accrued leave the day offices were closed may be paid for the hours for the closing in lieu of paid leave not to exceed the regular daily scheduled hours.

If Town offices were open and the liberal leave policy is in effect, it is the responsibility of the non-essential and stand-by employee to determine whether to report for or remain at work unless otherwise directed. If an employee elects not to report for work, reports late, or leaves early, it is the employee's responsibility to advise the Department Head as early as possible of the decision. Employees who do not report, report late or leave early may charge the absence to compensatory, vacation, or personal leave. If all leave balances have been exhausted, the employee may elect leave without pay. It is the Department Head's responsibility to maintain minimum staffing to provide essential services.

In the event of a disaster specific to the Town of Berlin as declared by local, state, or federal officials, all employees are designated essential and must follow reporting directives set forth in the Emergency Operation Plan for the department.

END OF SECTION

SECTION 8 GRIEVANCE PROCEDURES

8.01 General Provisions

It is the policy of the Town that all employees shall have an opportunity to present their work-related complaints and to appeal disciplinary or other administrative decisions which directly affect them through a dispute resolution or grievance procedure. The Town will attempt to promptly resolve ~~promptly~~ all grievances that are appropriate for handling under this policy.

An appropriate grievance is defined as an employee's expressed dissatisfaction concerning any interpretation or application of a work-related policy by management, supervisors, or other employees. Examples of matters which may be considered appropriate grievances under this policy include:

- A belief that Town policies, practices, rules, regulations, or procedures have been applied in an unfair manner that is detrimental to an employee;
- Treatment considered unfair by an employee such as coercion, reprisal, harassment, or intimidation;
- Alleged discrimination because of any of the race, color, sex, age, religion, national origin, marital status, or disability federally protected classes; and
- Improper or unfair administration of employee benefits or conditions of employment such as scheduling, vacations, fringe benefits, promotions, retirement, holidays, performance review, salary, or seniority.

8.02 Grievance Filing Procedures

Employees shall notify the Town, in a timely fashion, of any grievance considered appropriate for handling under this policy. The grievance procedure is the exclusive remedy for employees with appropriate grievances. As used in this policy, the terms "timely fashion", "reasonable time", and "promptly" generally will mean five (5) working days.

The grievance procedure has a maximum of three steps, but grievances may be resolved at any step in the process. Grievances are to be fully processed until the employee is satisfied, does not file a timely appeal, or exhausts the right of appeal. A decision becomes binding on all parties whenever an employee does not file a timely appeal or when a decision is made in the final step and the right of appeal no longer exists.

Employees who feel they have an appropriate grievance shall proceed as follows:

1. Promptly bring the grievance to the attention of the immediate supervisor. If the grievance involves the supervisor, then the employee shall proceed directly to the second step. The supervisor is to investigate the grievance, attempt to resolve it, and give a decision to the employee within a reasonable time. The supervisor shall prepare a written and dated summary of the grievance and proposed resolution for file purposes.
2. Appeal the decision to the Department Head if dissatisfied with the supervisor's decision. The employee shall initiate the procedure with the Department Head if Step one has been bypassed. Such an appeal or initial complaint must be made in a timely fashion using a form provided for this purpose. The Department Head will, in a timely fashion, confer with the employee, the supervisor, other employees, and/or any other members of management considered appropriate; investigate the issues; and

communicate a decision in writing to the Town Administrator and all other parties involved. If the issue involves the Department Head, an employee is to speak with the Human Resources Director or the Town Administrator.

3. Appeal the decision to the Town Administrator if dissatisfied with the Department Head's decision. The timeliness requirement and procedures to be followed are similar to those in Step Two. The Town Administrator will take the necessary steps to review and investigate the grievance and will then issue a written, final, and binding decision; and communicate a decision in writing to the Mayor.
4. Grievances involving the Town Administrator shall be made directly to the Mayor. The timeliness requirement and procedures to be followed are similar to those in Step Two. The Mayor will take the necessary steps to review and investigate the grievance and will then issue a written, final, and binding decision and communicate the decision to the Town Administrator and all other parties involved.

The Town Administrator will provide support to supervisors and Department Heads in dealing with employee grievances. Employees should be encouraged to consult with their supervisors or Department Heads, on a less formal basis regarding employee complaints or disputes when appropriate.

Final decisions on grievances will not be precedent-setting or binding on future grievances unless they are incorporated into Town policy. When appropriate, the decisions will be retroactive to the date of the employee's original grievance.

Unless specified otherwise any information concerning an employee grievance is to be held in confidence. Supervisors, Department Heads, and other members of the administration who investigate a grievance are to discuss it only with those individuals who have a need to know or who are needed to supply necessary background information or advice.

Time spent by employees in grievance discussions with management during their normal working hours will be considered hours worked for pay purposes.

Employees are not to be penalized for the proper use of the grievance procedure. However, it is not considered proper if an employee raises grievances solely for the purposes of delay or harassment, or repeatedly raises meritless grievances. Implementation of the grievance procedure by an employee does not limit the right of the Town to proceed with any disciplinary action, which is not in retaliation for the use of the grievance procedure.

END OF SECTION

SECTION 4 COMPENSATION AND PAY PRACTICES

4.01 Pay Periods

All employees will be paid on a biweekly schedule. The work week will run from Monday through the following Sunday of each week, and the pay period will cover two (2) work weeks. Time records shall be submitted to the Department Head at the start of work on Monday for the previous work week. After reviewing the time records for their department, the Department Heads shall summarize the hours worked by the department's employees for the previous two-week period on the forms provided and submit the summary to the Human Resources Director by 10:30 AM on the Monday preceding the Friday of paycheck issuance. Notice will be given for adjustments to that schedule, due to holiday schedules or other conflicts. All time records must be verified by the employee and approved by the Department Head.

All nonexempt employees are required to complete an individual time record showing the daily hours worked. Time records cover one workweek and must be completed by the end of each shift. The following points should be considered in filling out time records:

- Employees should record their starting time, quitting time, and total hours worked for each workday.
- Employees are not permitted to begin work before their normal starting time or stop work after their normal quitting time without the prior approval of their supervisor.
- Employees are required to take scheduled lunch or meal breaks:
- Employee time records should be checked and approved by the supervisor involved.
- Unworked time for which an employee is entitled to be paid (paid absences, paid holidays, or paid vacation time) should be entered and approved by the supervisor on the time record. Authorized overtime also should be identified by the supervisor.
- The punching and/or filling out of another employee's time record or the falsifying of any time record is prohibited and shall be grounds for disciplinary action, up to and including termination.

4.02 Paydays

Paychecks will typically be issued on Friday mornings of pay weeks; adjustments may be made to that schedule, due to holiday schedules or other conflicts.

Paychecks will only be released to the Department Head or their department representative. Department representatives will be expected to sign acknowledging receipt of paychecks.

4.03 Payroll Deductions

Some regular deductions from the employee's earnings are required by law; other deductions are specifically authorized by the employee. The Town will withhold from the employee's paycheck those deductions required by law and pension plan contributions. Voluntary deductions authorized by the employee and deemed appropriate by the Town including but not limited to, insurance premium payments, Section 125 contributions, or other voluntary benefits may be withheld.

Involuntary deductions, for example, wage-garnishments, and changes to involuntary deductions withheld from an employee's paycheck shall follow guidelines as established by the State of Maryland Comptroller's Office. Notification of involuntary deductions shall be provided to the employee immediately upon employer acknowledgment.

4.04 Payroll Records

The official payroll records are kept by the Finance Department. Each Department Head shall submit an approved time record, including compensatory time, for each employee within their department, noting hours worked, leave taken, and overtime worked during the pay period.

4.05 Step-and-Grade System

The Town will develop and maintain a Step-and-Grade System for all employees and will review that system periodically. The rate of pay ranges for each covered position will be specified in that individual job description. Any annual Cost of Living Adjustments will be incorporated and must be approved by the Mayor and Council.

Except for entry-level positions, an employee may be hired at a rate of pay that is lower than the normal pay rate for a position. In such cases, the employee will advance to the normal rate of pay for the position once the employee has successfully completed a probationary period as further described in Section 1.03.34 Future raises for that employee will normally be considered as noted below.

4.06 Pay Increases

Except if approved in writing, all new employees, transferred employees, or promoted employees shall remain at the base pay rate level at which they were hired for a period of one (1) year from the date of hire.

All pay increases, including Cost of Living Allowance (COLA) increases when approved, will become effective at the start of the fiscal year unless otherwise approved by the Mayor as a promotion, advancement, or job reclassification for the position. If a newly hired employee is no longer in their probationary period and a COLA increase is approved by the Mayor and Council then the employee would be eligible for that increase.

4.07 Overtime

For the purposes of determining overtime eligibility and in accordance with the Fair Labor Standards Act (FLSA) regulations, all Town positions are designated as either "exempt" or "non-exempt", as further defined in Section 1, when determining eligibility for earning overtime compensation.

Regular full-time non-exempt employees are entitled to overtime compensation for hours worked over 40 hours paid per week. Regular part-time and temporary employees are entitled to overtime compensation for hours worked over 40 hours per week, unless approved in writing by the Town Administrator.

When computing overtime, vacation, sick, holiday, personal, compensatory, and miscellaneous leave used will count towards the calculation of overtime eligibility.

4.08 Emergency Call-Out

The Police Department shall serve as the after-hours emergency contact for all other Town departments and shall direct the emergency to the applicable department according to a call-out list for each department and type of emergency to be provided by the Department Head from time to time.

All employee(s) who are required to carry a cellular telephone by the terms of these regulations or as determined by the Department Head or supervisor shall utilize those telephones in a conscientious fashion by having the cellular telephone in their possession and operational at all times when required to do so by duty assignment or direction of the supervisor or Department Head. Repeated failure to respond to work-related calls when on stand-by or other required off-duty hours may be subject to disciplinary action up to and including termination.

Required response times, when applicable to any given position, will be set forth in that individual job description.

Field personnel other than police officers who respond to a bona fide emergency call-in during otherwise off-duty hours will be paid overtime for the actual time spent, or for a minimum of three (3) hours, whichever is greater. That 3-hour minimum shall apply equally whether an employee is on stand-by duty as described above, or who responds to an emergency call but is officially off-duty otherwise. The three-hour minimum rule does not apply to time worked that adjoins the normal work schedule.

Specific overtime practices may be developed by the Department Head with the approval of the Town Administrator for reoccurring scheduled events or activities, such as after-hours meetings or special community events (i.e., festivals, parades).

In the event that a Department Head, subject to the approval of the Town Administrator, determines that an employee has responded to a non-emergency solely for the purpose of incurring overtime, such overtime may be disallowed, and the employee may be subject to disciplinary action up to and including termination as the situation may warrant.

***** Working on developing a policy that addresses on-going on-call rotating schedules and possible additional compensation (worchester county does \$200/week or \$28/day)**

4.09 Compensatory Time

Employees entitled to overtime pay may request to receive compensatory time off instead of a cash payment with the approval of the Department Head. If the compensatory time option is exercised, the employee is credited with one and one-half times the hours worked as overtime.

Maximum accruals of compensatory time shall be limited to 240 hours for all non-exempt employees except law enforcement officers, who may accrue up to 480 hours. Cash overtime compensation shall be paid for overtime hours that exceed the maximum limit of compensatory time allowable by law.

Every effort will be made to utilize compensatory time before all other forms of paid time off with the exception of sick leave.

Requests to use compensatory time which are submitted with sufficient advanced notice shall be approved by the Department Head unless the Department Head determines that doing so would unduly disrupt the department. Department Heads may require an employee to take compensatory time off to reduce balances.

It is the responsibility of the Department Head to schedule compensatory time off, whenever the department's schedule permits, to reduce compensatory time balances by granting an employee's request to take accrued compensatory time off or by requiring compensatory time be taken off.

Upon termination of employment, employees will be compensated for any unused compensatory time at the employee's rate of pay current with the termination.

4.10 Travel Reimbursements

It is the policy of the Town of Berlin that business travel must be approved in advance and should be engaged in and reimbursed according to the guidelines in this Section.

Department Heads or supervisors must approve any employee travel in advance and submit that written recommendation to the Town Administrator. The Town Administrator shall have the authority to determine the necessity of official travel.

Written travel recommendations must be provided at least three weeks before the travel date, or as soon as practical, and include the following:

1. Purpose
2. Copy of class schedule or seminar agenda
3. Itinerary
4. Costs

Costs of an approved trip that are determined by the Town Administrator to be unreasonable or unwarranted for that trip will not be approved.

Employees are expected to use the most reasonable mode of transportation available, book the least expensive fares, and stay in and eat at moderately priced establishments.

Employee expenses for pre-approved travel will be paid or reimbursed when properly documented by the employee, reviewed by the supervisor, and approved by the Department Head or Town Administrator. Should travel occur in the month of June the employee must make every effort to submit requests for reimbursement prior to June 30th of that fiscal year.

Time spent traveling away from home on approved Town business during normal working hours is considered hours worked for pay purposes, and should be shown as such, with accompanying explanation on the employee's time record. Unless authorized, all travel time shall be reimbursed at a straight time rate.

Employees traveling on Town business are representatives of the Town and are expected to maintain a high level of professionalism and follow the Town's policies and rules while on such business.

Accommodations

When overnight accommodations are required a Town credit card shall be utilized to pay for the room and any parking-related charges. If a Town credit card is not available, employees may obtain a cash advance and pay for accommodations by submitting a written request approved by the Town Administrator to the Finance Director at least two weeks in advance of the date of travel. No other charges from the hotel/motel shall be placed on the billing statement, (such as room service, phone charges, movies, etc.). Each Town employee traveling on authorized business shall have separate room accommodations. **Reimbursement for overnight travel is available only when the employee is traveling more than 50 miles from the Town unless otherwise approved by the Town Administrator**

Meals and Incidentals

Town of Berlin employees traveling to an authorized function will be reimbursed for meals and incidentals on a per diem basis when meals are not included as part of the authorized function. No receipts are required for reimbursement under the per diem method. Meals included in the registration fee or official function or otherwise furnished at no additional cost will not be eligible for per diem.

Per diem shall be paid at a rate that is established by Government Services Administration (GSA.gov):

- The employee must submit a printout of their per diem page and attach it to their expense form
- The employee will use either the "Specific Rate" for a specific city/town as listed or if the city/town is not listed then the employee will use the "Standard Rate".

Per diems may be advanced. An Expense Form must be approved by the department director, or if it is a request for a department director, by the Town Administrator, and submitted to the Finance Department at least two weeks prior to the date of travel.

Should circumstances change or all or a part of the planned travel does not occur then all or whatever portion of the advancement will need to be paid back to the Town.

Mileage

Employees using their personal vehicle for travel related directly to Town business will be compensated at a per-mile rate equal to the reimbursement rate established by the Internal Revenue Service (IRS) for each mile traveled, upon presentation of a travel reimbursement expense accompanied by printed directions with starting and ending locations and the total number of miles related to those directions. All other reasonable expenses of official travel such as tolls will be completely reimbursed to the employee upon presentation of receipts or other adequate documentation of the expense along with a travel expense in a form acceptable to the Finance Director. All travel expenses must be approved by the Town Administrator. In the case of expense forms submitted by the Town Administrator, such expenses must be approved by the Mayor or a Councilmember.

4.11 Town Issued Credit Card/Gas Card Usage and Reporting

This procedure outlines the process and steps to follow for issuing, purchasing, reporting, and securing credit cards and gas credit cards held by employees of the Town of Berlin. This procedure addresses duties and responsibilities for each area.

Issuing Credit Cards

Department Heads will request the issue of a credit card and/or gas card from the Finance Director. Approval will be granted by the Town Administrator.

The limit for credit card spending is set by the employee's need for access to immediate purchase. The pre-approved levels are as follows:

Town Administrator	\$10,000
Department Heads	
Deputy Town Administrator	\$5,000
Finance	\$5,000
Human Resources	\$5,000
Planning & Zoning	\$5,000
Public Works	\$5,000
Water Resources	\$5,000
Police	\$5,000
Power Plant	\$5,000
Electric Distribution	\$5,000
Economic and Community Development	\$5,000
Superintendents and designated Administrative Assistant(s)	- \$1,000

When an exception to the preset limits is deemed necessary, a letter of explanation will be sent to the Town Administrator by the Department Head requesting approval. If approved, the Town Administrator will forward this approval to the Finance Director for an increase or to request an additional card. The Finance Director will keep a listing of employees with credit cards and the credit card limit. A Sales Tax-Exempt Card will be issued with each credit card.

Purchasing

Credit cards are to be used for purchasing goods and services directly related to the operation of the Town of Berlin. Purchases must be conservative and only made when it is not efficient to request a check from the Finance Department or when emergency situations arise.

The following list is a set of purchases that may not be made with a credit card. This list is not inclusive and when an employee is unsure if a purchase is allowable, they should seek guidance from their supervisor or the Finance Department.

- Alcohol;
- Goods or services only for personal use;
- Entertainment;
- Fuel for personal vehicles;
- Cash Advances;
- Tuition reimbursement as covered under Section 6.10 titled Job-Related Education;
- Purchases not directly related to the operation of the Town of Berlin.

Reporting

Purchases made with a credit card/gas card do not receive the prior written documentation that is required by the Town of Berlin; credit card/gas card purchases are instead documented at the end of each billing cycle when a statement is issued by the credit card company. The following is the process of documentation by responsible area:

Finance Department

- A. Accounts Payable personnel:
 - 1. Receives the completed documentation and prepares payment for the credit card/gas card company and sends payment within seven calendar days of documentation receipt.
- B. Finance Director:
 - 1. Reviews credit card statements and related documentation for accuracy and compliance with this policy.
 - 2. Contacts employee if further documentation is necessary.
 - 3. Maintains a list of late payments.
- C. Credit Card/Gas Card Holder – Employee:
 - 1. Maintains detailed receipts for each purchase made during the billing cycle.
 - 2. Reviews the monthly credit card statement for accuracy of charges.
 - 3. Contacts the credit card company for disputed charges and obtains dispute documentation.
 - 4. Prepares the credit card statement documentation in the following manner
 - a. Each original purchase receipt is adhered (taped, glued, stapled, etc.) to a sheet of 8½"x 11" plain paper.
 - b. Next to the receipt, the reason for the purchase is annotated.
 - c. If sales tax was paid, the reason for the tax is annotated on the page.
 - d. If the receipt is for travel (motel bills, meals, transportation, etc.) the reason for the travel is annotated and any conference or agenda documentation is attached.
 - e. If the receipt is for local meals, the list of attendees and the meeting agenda must be annotated. Also, the receipt must be detailed – a generic summary will not be accepted.
 - f. If a charge is disputed, documentation from the credit card company and the reason for the dispute must be documented.
 - g. If a receipt for a gas credit card the cardholder must annotate their name on each receipt.
 - 5. Signs the bottom of the credit card statement (even if no charges are made).
 - 6. Prepares or completes a Requisition (if charges were made) ensuring that each charge is allocated to the proper cost center and account number
 - 7. Forwards the credit card statement with the requisition number noted (if charges were made) with documentation to the Town Administrator
- D. Town Administrator
 - 1. Reviews credit card/gas card documentation for accuracy, allowable charges, and proper receipts.
 - 2. Forwards credit card/gas card documentation to the Finance Department for payment at least seven days prior to the due date.
 - 3. Will be responsible for reviewing all training charges made on credit cards and confirming prior to approval.

Failure by the credit card holder to submit statements and receipts in a timely manner resulting in two late charges from the credit card company will result in the suspension of the employee's credit card and the employee will be responsible for the late fees.

E. Human Resources Director

1. At termination of employment, will ensure that credit card/gas card is secured, and all card charges have cleared prior to issuing final payment of salary and benefits.
2. At approval of a leave of absence, retrieve the credit card/gas card prior to the employee's leave and return the card upon reinstatement.

Security

Credit cards will be kept in a secure manner at all times. Credit cards should not be left in offices or areas accessible to others.

Credit cards will only be used by the authorized user. Lending out credit cards to co-workers or subordinates is not allowable.

Compliance

This policy provides the necessary guidance for the Town of Berlin credit card/gas card usage.

Repeated offenses of not following the direction as outlined in this policy will result in credit card/gas card privileges being revoked by the Town Administrator. Any employee who exploits the use of a Town issued credit card/gas card beyond the intent of the established policy will face disciplinary action up to and including termination of employment. The Mayor will serve as the oversight for the Town Administrator whereas the Town Administrator will comply with this and all established policies.

1. Charges made on credit cards that are not allowable will be reimbursed by the employee to the Town of Berlin.
2. Employees are required to sign this policy ensuring that the above guidelines are understood.
3. At the time of employment termination, any unallowable charges on the Town credit card/gas card will be deducted from the employee's final pay check.

4.12 Cellular Telephone Reimbursement

As a general rule, the Town of Berlin shall not own or otherwise provide cellular telephones to its employees. However, the Town does recognize that certain employees may need to use cellular telephones to conduct legitimate Town business. In these cases, effective February 1, 2009, the Town will provide a cellular telephone reimbursement for employees who are required to use their personal cellular telephones for work purposes, subject to the following conditions:

- The Town Administrator must first authorize the employee to use their own personal cellular telephone for Town business. An acknowledgment form shall be signed by the employee, Department Head, and Town Administrator with a copy retained by both the employee and the Town. The authorization form will identify the employee, department, and the employee's acknowledgment of this policy.

- The Town will pay an allowance of up to \$50.00 per month for cellular phone service. This reimbursement amount will be reviewed annually to ensure the amount is adequate to pay expenses incurred in maintaining a wireless plan. Requests for cellular telephone reimbursements must be presented to the Finance Department on an expense report signed by the employee and Department Head. Requests for cellular telephone reimbursements must be submitted by the end of the fiscal quarter in which the expenses occurred.

END OF SECTION

SECTION 5 HOURS AND ATTENDANCE

5.01 Work Hours

It is the policy of the Town of Berlin to establish the time and duration of working hours as required by workload and production flow, customer service needs, the efficient management of human resources, and any applicable law. Working hours and shift configuration for departments will be determined by Town Administrator and/or Department Head as needed.

5.02 Attendance

It is the policy of the Town of Berlin to require employees to report for work punctually and to work all scheduled hours and any required overtime. Excessive tardiness and poor attendance disrupts workflow and customer service and will not be tolerated.

Supervisors should notify employees of their starting, ending, and break times. Employees are expected to be on-site and preparing for their workday as appropriate.

Employees should notify their supervisor of unexpected absences or tardiness as far in advance of the beginning of their designated starting time as possible. The Department Head shall determine the appropriate method of notifications. Whenever possible, employees should notify their supervisor as soon as possible if an unexpected need to leave work early occurs. Such notification should include a reason for the absence or tardiness, and an indication of when the employee can be expected to report for work. If the supervisor or their designee is unavailable, notification should be made to the Human Resources Director. If the Human Resources Director is unavailable, notification should be made to the Town Administrator. When appropriate, the supervisor should counsel the employee on the importance of good attendance and warn that excessive tardiness or absences will lead to discipline, up to and including termination.

Employees will not be required or permitted to work any period of time before or after scheduled starting or quitting times for the purpose of making up time lost because of tardiness, unauthorized absence, authorized absence, or any other reason if the result will be that the employee works more than forty hours during the work week. Employees who are habitually late reporting to work, whether at the beginning of the shift or after a break, are subject to disciplinary action.

Unauthorized or excessive absences or tardiness will result in disciplinary action, up to and including termination. An absence is considered to be unauthorized if the employee has not followed proper notification procedures or the absence has not been properly approved. Excessive absences, tardiness, or early departure more than three times in a three-month period generally are grounds for discipline.

Employees who are absent from work for two consecutive days without giving proper notice will be considered as having voluntarily quit. At that time, the Town will formally note the termination and advise the employee of the action by certified mail to the employee's last known address.

Employees who report for work without proper equipment or in improper attire may not be permitted to work and would be required to use the appropriate leave. Employees who report to work in a condition considered not fit for work, whether for illness or any other reasons, will not be allowed to work and would be required to use the appropriate leave.

In the interest of community participation in vital services, with approval from the Department Head, employees will be authorized to donate blood without using leave for one hour per occurrence up to six occurrences per year. The employee will be required to furnish proof that they were donating blood on that date and time.

Employees who abuse leave policies by providing false or misleading information about reasons for absence are subject to disciplinary action.

42. Breaks and Meal Periods

All breaks from work including meal periods shall be scheduled by the Department Head so that they do not interfere with Town business or service to the public. The scheduling of meal periods may vary depending on department workloads. Meal periods are unpaid. Employees required to remain on the job or remain at their post during the meal period or granted a meal period of less than 30-minutes will be compensated for the meal period.

Breaks from work other than meal periods may not be used to shorten the workday, lengthen the meal period, or exceed 20 minutes per day.

43. Light Duty

When an employee who has been injured or ill is released to return to work with specific work restrictions, with physician verification, light or restricted duty may be requested by the employee. If available, the Town may permit the work accommodation; the Town would not be required to create an accommodation to meet the employee's needs. .

Light-duty work, if available, may be provided for up to a maximum of six months unless specifically authorized by the Mayor. If the light-duty assignment expires and the employee is not released to return to full duty, the employee may request a leave of absence in accordance with Section 6, or transfer to an available job that meets the employee's restrictions. If the employee is not eligible for leave or a leave request is denied, and no job is available for transfer, the Town would not be required to create an accommodation to meet the employee's needs. Therefore, the employee may resign or be terminated from Town employment.

The Town reserves the right to require examination of an employee by a physician of the Town's choice, at the Town's expense, to determine their ability to return to work after an injury or illness.

An employee who refuses available light-duty that complies with restrictions set forth by a physician is not eligible to receive compensation under Workers' Compensation or any other paid leave and may be subject to disciplinary action.

44. Inclement Weather and Emergency Conditions

In case of inclement weather or emergency conditions, employees are expected to report to work unless otherwise notified by a public announcement or the Mayor (or designee) that the Town offices are closed or that a liberal leave policy is in effect. Essential, standby, and non-essential employees are designated by the Department Head. Any delayed starting times for Town facilities due to inclement weather or emergency

situations shall be announced and shall be subject to the Town's liberal leave policy unless otherwise specifically specified in the media announcements.

Essential employees are required to report to work regardless of conditions or closings. Standby employees are required to be ready and available to report to work upon being notified to do so regardless of conditions or closings. Non-essential employees are not required to report for work or remain on standby unless otherwise advised by their supervisor or Department Head. Public Works Department Director and the Superintendent, the Water Resources' Director and the Superintendents, the Electric Utility Director and the Superintendent, and the Chief of Police, are all considered standby employees. Employees who work as required during emergencies will be compensated for time worked under normal compensation rules.

If Town offices are closed due to inclement weather conditions Monday-Friday, and the liberal leave policy is not in effect, full-time employees who could not work due to the closing will be paid for normal daily scheduled work hours. Employees who work or are scheduled off work on the day the offices were closed will be paid for the number of hours that Town offices were closed between 8:00 a.m. and 5:00 p.m., Monday through Friday, in addition to hours worked. Hours paid due to an emergency closing will be paid at straight time and will not count toward overtime. Part-time employees will be paid for scheduled hours normally worked according to the provision as outlined above. Employees using accrued leave the day offices were closed may be paid for the hours for the closing in lieu of paid leave not to exceed the regular daily scheduled hours.

If Town offices were open and the liberal leave policy is in effect, it is the responsibility of the non-essential and stand-by employee to determine whether to report for or remain at work unless otherwise directed. If an employee elects not to report for work, reports late, or leaves early, it is the employee's responsibility to advise the Department Head as early as possible of the decision. Employees who do not report, report late or leave early may charge the absence to compensatory, vacation, or personal leave. If all leave balances have been exhausted, the employee may elect leave without pay. It is the Department Head's responsibility to maintain minimum staffing to provide essential services.

In the event of a disaster specific to the Town of Berlin as declared by local, state, or federal officials, all employees are designated essential and must follow reporting directives set forth in the Emergency Operation Plan for the department.

END OF SECTION

SECTION 8 GRIEVANCE PROCEDURES

8.01 General Provisions

It is the policy of the Town that all employees shall have an opportunity to present their work-related complaints and to appeal disciplinary or other administrative decisions which directly affect them through a dispute resolution or grievance procedure. The Town will attempt to promptly resolve all grievances that are appropriate for handling under this policy.

An appropriate grievance is defined as an employee's expressed dissatisfaction concerning any interpretation or application of a work-related policy by management, supervisors, or other employees. Examples of matters which may be considered appropriate grievances under this policy include:

- A belief that Town policies, practices, rules, regulations, or procedures have been applied in an unfair manner that is detrimental to an employee;
- Treatment considered unfair by an employee such as coercion, reprisal, harassment, or intimidation;
- Alleged discrimination because of any of the federally protected classes; and
- Improper or unfair administration of employee benefits or conditions of employment such as scheduling, vacations, fringe benefits, promotions, retirement, holidays, performance review, salary, or seniority.

8.02 Grievance Filing Procedures

Employees shall notify the Town, in a timely fashion, of any grievance considered appropriate for handling under this policy. The grievance procedure is the exclusive remedy for employees with appropriate grievances. As used in this policy, the terms "timely fashion", "reasonable time", and "promptly" generally will mean five (5) working days.

The grievance procedure has a maximum of three steps, but grievances may be resolved at any step in the process. Grievances are to be fully processed until the employee is satisfied, does not file a timely appeal, or exhausts the right of appeal. A decision becomes binding on all parties whenever an employee does not file a timely appeal or when a decision is made in the final step and the right of appeal no longer exists.

Employees who feel they have an appropriate grievance shall proceed as follows:

1. Promptly bring the grievance to the attention of the immediate supervisor. If the grievance involves the supervisor, then the employee shall proceed directly to the second step. The supervisor is to investigate the grievance, attempt to resolve it, and give a decision to the employee within a reasonable time. The supervisor shall prepare a written and dated summary of the grievance and proposed resolution for file purposes.
2. Appeal the decision to the Department Head if dissatisfied with the supervisor's decision. The employee shall initiate the procedure with the Department Head if Step one has been bypassed. Such an appeal or initial complaint must be made in a timely fashion using a form provided for this purpose. The Department Head will, in a timely fashion, confer with the employee, the supervisor, other employees, and/or any other members of management considered appropriate; investigate the issues; and communicate a decision in writing to the Town Administrator and all other parties involved. If the issue

involves the Department Head, an employee is to speak with the Human Resources Director or the Town Administrator.

3. Appeal the decision to the Town Administrator if dissatisfied with the Department Head's decision. The timeliness requirement and procedures to be followed are similar to those in Step Two. The Town Administrator will take the necessary steps to review and investigate the grievance and will then issue a written, final, and binding decision; and communicate a decision in writing to the Mayor.
4. Grievances involving the Town Administrator shall be made directly to the Mayor. The timeliness requirement and procedures to be followed are similar to those in Step Two. The Mayor will take the necessary steps to review and investigate the grievance and will then issue a written, final, and binding decision and communicate the decision to the Town Administrator and all other parties involved.

The Town Administrator will provide support to supervisors and Department Heads in dealing with employee grievances. Employees should be encouraged to consult with their supervisors or Department Heads, on a less formal basis regarding employee complaints or disputes when appropriate.

Final decisions on grievances will not be precedent-setting or binding on future grievances unless they are incorporated into Town policy. When appropriate, the decisions will be retroactive to the date of the employee's original grievance.

Unless specified otherwise any information concerning an employee grievance is to be held in confidence. Supervisors, Department Heads, and other members of the administration who investigate a grievance are to discuss it only with those individuals who have a need to know or who are needed to supply necessary background information or advice.

Time spent by employees in grievance discussions with management during their normal working hours will be considered hours worked for pay purposes.

Employees are not to be penalized for the proper use of the grievance procedure. However, it is not considered proper if an employee raises grievances solely for the purposes of delay or harassment, or repeatedly raises meritless grievances. Implementation of the grievance procedure by an employee does not limit the right of the Town to proceed with any disciplinary action, which is not in retaliation for the use of the grievance procedure.

END OF SECTION



June 26, 2023 Weekly Report

Departments this Week:

Town Administrator

- Sections 4, 5, and 8 of the Employee Handbook will be presented for M&C review and approval at the Monday, June 26th Meeting.
- Staff and consultants continue to discuss the Council Chamber AV system.
- All Departments are reviewing their various fees to make recommendations for increases. An appropriate motion will be put forth at a later date.
- Ethics Commission met on Thursday, 6/15 to review Financial Disclosures.
- Tattoo Committee met on Friday, 6/16 to reopen this discussion.
- MML Conference in Ocean City next week. I will be there all day on Tuesday.

Economic and Community Development

- Received \$6500 in fireworks sponsorship.
- We are celebrating national pollinator week with a variety of activities. Stop by the Berlin Welcome Center to pick up a copy of the pollinator garden tour.
- We received a grant from the Maryland Coastal Bays to give out free farmers market bags to town residents at the Berlin Farmers Market along with packets of seeds for the kids.
- We received our state permit for the fireworks and are all set with the Berlin Fire Company.
- Quarterly reports have been completed for our DHCD Community Legacy Facade grant, Main Street Improvement Grants and Strategic Demolition Grant.
- We will have a Berlin Main Street booth set up at MML next week. Stop by and say hi to Allison.
- I am on vacation June 26-29. Working remote June 30.

Planning Department

- Issued 2 Notices of Violation.
- Issued 14 Building Permits, including 3 for remodeling, 3 porch additions, 2 fence permits, one demolition permit, one excavation permit, one shed permit, one sign permit, one awning installation, and one siding permit.
- The Planning Commission met 6/14/2023 and reviewed Concept Plans for a mixed-use commercial/residential development proposed for a parcel at the intersection of U.S.113 and Germantown Road and a proposed residential townhouse development of 20 rental units to be erected at 534 Bay Street.

Electric

- North Main Street: Install Primary, Transformers & Secondary
- Downtown: Paint Victorian Street Light Poles
- 230 Circuit Outage: Equipment Failure
- Purnell Crossing North: Install Transformers & Street Light Bases
- North Main Street: Installed Underground Electrical Service
- Spray Site: Trim Trees
- Various Locations: Street Light Repairs & Tree Trimming
- Meter Reads (Re-Reads)
- Power Plant: Peak Shaving Prep work.

Police Department

- 6/6: Chief Downing chaired a virtual meeting with the Maryland Municipal League – Police Executives Association.
- 6/5 through 6/16: Pfc Lloyd completed the two week “Collision Reconstruction Course Level Three” and is now certified.
- 6/19 through 6/21: All sworn members of the Berlin Police Department completed a psychological screening as a part of the agencies’ mental health and wellness program.
- Collisions – 7; Arrest – 0

Finance Director

- DBF invoices review and processing.
- Credit cards payments and processing- Shirley
- Bank reconciliations and journal entries
- Water and electric meters readings- Melissa
- Smart metering project planning and Tyler integration
- Check processing and credit cards payments, review registers, checks, and Town’s cards payments - Shirley.
- Department meetings scheduled, projects, and planning.
- Preparation for year-end of FY 2023
- Employees promotions, department meetings
- Payroll reconciliations
- MD PSC reporting

Water Resources

- Installed 3 Insert-A-Valves on water main at Washington/S Main
- Held pre-construction meeting with DBF and TK for William St lift station installation.
- Power washing at WWTP
- Working on drying bed moles at WWTP
- Collected monitoring well samples from Spray Site A
- MD Rural Water assisted with ground penetrating radar to locate infrastructure on William St
- Schoolfield lift station - rebuilt pump was delivered.
- Responded to discolored water issues with the start of Well 1; flushed hydrants.
- Assisted with Bathtub Races
- Replaced 2 water meters at 508 Bay St Mallard Ridge
- Electric department began trimming driveway at Spray Site A
- Two employees completed MDE Water Sampler certification.

Public Works

- Our Summer Program started again this year on June 20 with the return of James Ubel and Geren Palmer.
- Berlin Horticulture Advisory Committee and Public Works crews have been out cleaning and maintaining downtown flowers bed.
- Updated our playground equipment with OME nuts and bolts Adding new signage, painting rusted spots.
- RFP sheets are out to repair upstairs Geothermal units, end date is July 7, 2023, at 11:00 AM