



MAYOR AND COUNCIL
Meeting Agenda
Buckingham Presbyterian Church
20 S. Main Street
Tuesday, October 13, 2026

REGULAR SESSION – Buckingham Presbyterian Church

- 1. 7:00 PM CALL TO ORDER**
- 2. 7:05 PM APPROVAL OF MINUTES:** Mayor Zack Tyndall (*Strategic Plan: DS1*)
 - a) Work Session Minutes of 9.28.26
 - b) Regular Session Minutes of 9.28.26
 - c) Closed Session Minutes of 9.28.26
- 3. 7:10 PM REMARKS FROM OUTGOING COUNCILMEMBERS**
- 4. 7:15 PM SWEARING-IN CEREMONY (*Strategic Plan: DS1, AS2*)**
 - a) Swearing-in of Councilmembers by Mayor Zackery Tyndall
 - i. District 1 Councilmember Matthew “Matt” Stoehr
 - ii. District 4 Councilmember Anthony “Tony” Weeg
 - iii. At-Large Councilmember Jay Knerr
- 5. 7:20 PM NOMINATION & SELECTION OF COUNCIL VICE PRESIDENT – Mayor Zack Tyndall**
(Strategic Plan: DS1, AS2)

****15-MINUTE RECEPTION BREAK****
- 6. 7:35 PM SWEARING-IN OF NEW BOARDS/COMMISSION MEMBER(S)**
 - a) Newly Appointed Member to Planning Commission – Mayor Zack Tyndall
(Strategic Plan: DS1, AS2)
- 7. 7:40 PM PRESENTATION(S):**
 - a) Life Saving Awards, Berlin Police Department – Police Chief Howard Drewer
(Strategic Plan: DS2, AS1)
 - b) Data Centers Overview – Councilmember Jack Orris (*Strategic Plan: DS3, AS1*)
- 8. 8:00 PM ITEM(S) FOR APPROVAL:**

A public comment period will be offered after discussion by the Mayor and Council for each Item for Approval. Any person who may wish to speak will be given two (2) minutes or such time as may be deemed appropriate by the Mayor.

 - a) Motion 2026-57: Allowing the Town to Close on MWIFA Loan Funding for the Berlin Lead Service Line Replacement Phase 1A (which was previously referred to as Berlin Lead Service Line Replacement – Phase 1) separate from MWIFA Loan Funding for Any Other Projects – Finance Director Natalie Saleh
(Strategic Plan: DS3, AS3)

- a) Resolution 2026-09: Declaring the Town’s Reasonable Expectation to Reimburse from Proceeds of a Future Borrowing Expenditures Paid for the Berlin Lead Service Line Replacement Phase 1A Prior to Closing on the Borrowing – Finance Director Natalie Saleh (Strategic Plan: DS3, AS3)
- 9. 8:15 PM **FIRST READING** *(Public Hearing to be held on Monday, October 26, 2026)*
 - a) Ordinance 2026-08: Authorizing Town General Obligation Debt to Finance, Reimburse or Refinance Costs of the Berlin Lead Service Line Replacement Phase 1A; Providing that Details of Any Such Debt Shall be Fixed or Provided for by Resolution; Pledging the Town’s Full Faith and Credit and Unlimited Taxing Power to Payment of Any Such Issued Debt and Allowing Such Debt to be Paid in the First Instance from Other Available Sources; and Generally Relating to Any Such Debt – Finance Director Natalie (Strategic Plan: DS4, AS2)
- 10. 8:30 PM **REPORT(S):** Departmental Reports
(Strategic Plan: DS1, DS4)
- 11. 8:35 PM **COMMENTS FROM THE PUBLIC** (Strategic Plan: DS4; DS5)
Anyone wishing to speak during COMMENTS FROM THE PUBLIC at the Regular Session may do so for up to five (5) minutes or as determined by the Mayor. Please state your name, street, and the subject you wish to address.
- 12. 8:40 PM **COMMENTS FROM THE COUNCIL**
- 13. 8:45 PM **COMMENTS FROM THE MAYOR’S OFFICE**
- 14. 8:50 PM **COMMENTS FROM THE PRESS**
- 15. 8:55 PM **ADJOURNMENT**



**BERLIN MAYOR AND COUNCIL
PLANNING COMMISSION
Meeting Minutes
Work Session
Monday, September 28, 2026**

5:00 PM WORK SESSION – Worcester County Library, Berlin Branch

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

Absent: Councilmember Shaneka Nichols

Planning Commission Present: Chairman Matt Stoehr, Newt Chandler, Pete Cosby, Dirk Widdowson, Janelle Gerthoffer, Erich Pfeffer, and Logan Hall

Planning Commission Absent: Steve Scheiber

Staff Present: Town Administrator Mary Bohlen, Town Legal Consultant Emily Morris, Acting Planning Director Ryan Hardesty, Human Resources Director Kelsey Jensen, Mayor's Executive Assistant Sara Gorfinkel, and Associate Town Administrator Kate Daub.

This meeting was broadcast live via Facebook. Mayor Tyndall called the meeting to order at approximately 5:00 PM.

Mayor Tyndall explained that the meeting's purpose was to continue discussion of the Town's accessory dwelling unit (ADU) ordinance ahead of the October 1st deadline by which the Town must adopt an ordinance under state requirements. He said that the Mayor and Council and the Planning Commission had been working constructively toward meeting the deadline. He then turned the meeting over to Ms. Emily Morris of EKM Law, legal counsel to the Town's Planning Department. Ms. Morris continued the presentation and recommended using the summary document included in the meeting packet to guide the discussion, given the limited meeting time. She noted that the summary highlighted revisions made since the previous discussion.

Ms. Morris said the proposed ADU size limits had been revised to allow 350 to 600 square feet of livable space, replacing the previous combination of a fixed square-footage cap and a percentage limit. She said a definition of "accessory dwelling structure" had also been added following further discussion at a recent Planning Commission meeting. For an ADU built above a garage, she said the definition would consider the entire building envelope, including the garage, rather than only the residential portion. She said the revisions also addressed semi-attached ADUs, such as those connected to a primary residence by a breezeway. She said the intent was generally to apply size and design limits similar to those for fully detached ADUs.

Mr. Chandler asked whether an addition to an existing residence could be classified as an accessory dwelling unit (ADU). He expressed concern that a homeowner who otherwise complies with applicable setback and lot requirements should be permitted to construct an addition, including one connected to the principal residence by a breezeway, without the addition necessarily being classified as an ADU. Ms. Morris acknowledged that the proposed ordinance did not fully address this distinction. She explained

that, under the proposed language, a separate dwelling unit could technically qualify as an ADU and therefore be subject to the applicable size limitations. The discussion then focused on whether the absence of a kitchen or other residential facilities would prevent an addition from meeting the definition of an ADU.

Planning Commission Chairman Matt Stoehr raised the example of a detached pool house containing a bar or cooking facilities, living space, and a bathroom and asked whether such a structure could qualify as an ADU. Ms. Morris indicated that it potentially could, depending on the facilities provided. This prompted further discussion regarding what constitutes a kitchen or cooking facility and whether a typical pool house containing certain residential amenities could inadvertently fall within the definition of an ADU.

Mr. Stoehr observed that pool houses commonly contain bathrooms and may include facilities for food preparation without being designed or intended to function as independent dwelling units. He emphasized the importance of distinguishing between accessory structures that merely contain certain residential amenities and those that are permanently designed and equipped to function as separate dwelling units.

The members discussed whether an ADU should be required to contain a full bathroom, cooking facilities, and permanent sleeping accommodations. Mr. Stoehr stated that occasional overnight use of a pool house by family members or guests should not, by itself, cause the structure to be classified as an ADU. Ms. Morris referenced the existing definition of a dwelling unit, which requires permanent provisions for sanitation, cooking, eating, sleeping, toilet and bathing functions, and other activities routinely associated with daily life. Based on that definition, it was noted that a conventional pool house would not necessarily satisfy all the elements required to constitute a dwelling unit.

Mayor Tyndall acknowledged the practical enforcement challenges associated with the issue, particularly because the Town Code does not currently provide a clear distinction between these types of structures. The discussion highlighted the need for objective standards that distinguish an ADU from other residential additions and accessory structures based primarily on the structure's permanent design, configuration, and facilities rather than its occasional or temporary use.

The presence of a cooking range was discussed as a potential objective indicator of residential use. Mr. Pfeffer noted that a permanently installed cooking range has traditionally helped distinguish a dwelling unit from other accessory spaces, although the availability of modern appliances and the presence of cooking equipment in workshops, pool houses, and similar structures can complicate that distinction. Members considered whether the ordinance should include specific language addressing cooking ranges or pool houses but generally favored avoiding overly specific provisions where established zoning or building-code terminology could adequately address the issue.

The discussion identified three principal characteristics that would help distinguish an ADU from another accessory structure, including dedicated sleeping or bedroom accommodations, a kitchen equipped with a cooking range or stove, and a full bathroom. Members noted that a living area containing a couch would not necessarily constitute permanent sleeping accommodations and that a half bathroom, standing alone, would not provide the facilities necessary for a complete dwelling unit. Ms. Morris indicated that this approach was generally consistent with the existing definition of a dwelling unit,

which considers the collective presence of permanent facilities necessary for ordinary daily residential activities. The group therefore supported retaining the language as drafted rather than adding a specific exclusion for pool houses.

Ms. Morris reviewed additional revisions to the proposed ordinance. She explained that the occupancy provision had been revised from a maximum of three adults to two adults plus two minor-aged immediate family members and reiterated that the proposed ADU size range was 350 to 600 square feet. She also noted that ADUs located within historic districts would remain subject to Historic District Commission review and approval under applicable standards, while the Planning Commission would confirm compliance with the design requirements established elsewhere in the ordinance.

Mr. Chandler raised concerns regarding permissible lease terms for ADUs and questioned whether the ordinance should require annual leases rather than allow short-term rentals. Ms. Morris explained that the State legislation is intended to expand housing opportunities and noted the concern that permitting short-term rentals could result in ADUs being used for seasonal or transient accommodations rather than longer-term housing. She stated that State law allows municipalities to regulate short-term rentals but that the draft ordinance currently relies on the Town's existing short-term rental regulations. Accordingly, an ADU could be used as a short-term rental if it meets the Town Code's applicable permanent-residency requirements.

Members also discussed the potential use of ADUs for seasonal J-1 employee housing. Ms. Morris noted that the proposed occupancy restriction of two adults would prevent larger groups of seasonal workers from occupying a single ADU. Members observed that seasonal employee housing often accommodates substantially more individuals and that limiting an ADU of up to 600 square feet to two adults could make such use financially impractical. Ms. Morris clarified that the two adult occupants would not be required to be related or married and that the draft ordinance did not otherwise establish a minimum lease term.

The discussion then turned to addressing requirements for ADUs. Ms. Morris explained that an earlier draft had sought to avoid assigning separate addresses to ADUs so as not to create the appearance of two independent dwelling units on a single property. Ms. Hardesty subsequently consulted Worcester County, which assigns 9-1-1 addresses, and said that the County recommended that ADUs receive distinct address designations for emergency-response purposes. She suggested using the primary structure's street address followed by a unit designation. Mayor Tyndall proposed using traditional half-addresses instead, noting that such addresses are common in older communities and could suit Berlin. Ms. Hardesty indicated that the County had not specifically recommended half-addresses but agreed that the option could be investigated.*

Members returned to the proposed occupancy limitation of two adults and two minor immediate family members and discussed how the provision would apply to occupants approaching the age of majority and whether the required relationship between adult and minor occupants should be more clearly defined. The discussion included the possibility of requiring an adult occupant to have legal guardianship of any minor occupants rather than allowing unrelated minors to reside with unrelated adults. Members also acknowledged that less common family arrangements could arise, such as an 18-year-old sibling serving as the legal guardian of younger siblings. Ms. Morris agreed to revise the provision to address legal guardianship and the applicable age of minority.

Ms. Morris next reviewed proposed design requirements intended to encourage converting or reusing existing structures rather than constructing additional buildings. She explained that, based on previous discussions, language had been incorporated into both the Historic District Commission and Planning Commission sections encouraging applicants to use existing structures on a property where feasible. She said the intent was to minimize changes to the existing character of properties and allow ADUs to integrate more naturally into established development.

Councilmember Knerr questioned the use of the word “shall” in the design requirements and whether “must” would establish a stronger mandatory standard. Ms. Morris explained that, in statutory drafting, “shall” denotes a mandatory requirement rather than a recommendation. Members briefly discussed the distinction between mandatory terms such as “shall,” “will,” and “must” and discretionary terms such as “should,” “may,” and “can.” Ms. Morris confirmed that “shall” was intended to establish a binding design requirement.

Members then returned to the proposed occupancy and legal-guardianship provisions after identifying a potential interaction with language elsewhere in the ordinance concerning immediate family members. Mr. Hall noted that the ordinance already referenced an owner’s immediate family members in another context and questioned how that provision would interact with a requirement that minor occupants be under the legal guardianship of an adult ADU occupant. He expressed concern that requiring both an immediate-family relationship and legal guardianship could create unintended complications in situations involving extended family members, including in-laws and minors. Ms. Morris suggested that defining permitted minor occupants by reference to immediate family relationships could provide an alternative to relying exclusively on legal guardianship.

Ms. Morris clarified that the ordinance’s definition of “immediate family member” serves a separate purpose. She explained that the property must be owned by a natural person rather than an LLC and that the owner-occupancy and qualifying-family-member provisions are intended to prevent a property from effectively functioning as a duplex occupied by two unrelated households without an ongoing connection to the owner. Mr. Hall stated that he had previously understood ADUs to be limited to occupancy by immediate family members. Ms. Morris clarified that Maryland law requires ADUs to be permitted as rental units and that the proposed owner-occupancy provisions were intended to maintain an appropriate connection between the property owner and the dwelling unit, rather than restrict ADU occupancy exclusively to family members.

Members then discussed the circumstances under which an owner could rent either the principal dwelling or the ADU. Ms. Morris explained that the property must be owned by a natural person and that, under ordinary circumstances, the ordinance was intended to prevent both dwelling units from being rented simultaneously. Mr. Widdowson asked whether the property would be required to serve as the owner’s primary residence or whether a secondary residence could qualify. Ms. Morris responded that the Town intended to apply the same primary-residency standard currently used for short-term rentals, with residency determined through the Maryland State Department of Assessments and Taxation (SDAT).

Ms. Morris explained that this approach would provide flexibility while maintaining an ongoing connection between the owner and the property. Mayor Tyndall noted that relying on the Town’s

existing short-term-rental residency standard would also avoid creating a separate residency determination process specifically for ADUs.

Mr. Widdowson expressed concern regarding the practical enforcement of the proposed owner-occupancy and rental restrictions. Mayor Tyndall acknowledged that enforcement would be, at least in part, complaint-driven and emphasized the importance of informing applicants of the applicable occupancy and rental requirements during the ADU approval process. Ms. Hardesty added that the Town incorporates proactive measures into its code-enforcement efforts, while acknowledging that continuous monitoring of individual properties would not be feasible.

Ms. Gerthoffer asked how the proposed ordinance would identify and treat LLC ownership. Ms. Morris explained that an LLC would not qualify for purposes of the ADU owner-occupancy requirements because a corporate entity cannot establish permanent residency. She noted that the Maryland State Department of Assessments and Taxation (SDAT) maintains records that could verify property ownership. Ms. Morris distinguished LLC ownership from ownership through a living trust established for estate-planning purposes, explaining that a living trust could potentially qualify as a pass-through ownership arrangement where the individual who established the trust retains the requisite ownership interest.

The discussion then turned to a proposed time-limited special exception available through the Board of Appeals for circumstances in which a property owner temporarily could not satisfy the owner-occupancy requirement. Ms. Morris explained that the provision was intended to address legitimate temporary absences, such as military deployment or an elderly property owner relocating to assisted living while retaining ownership of the property and relying on rental income. In such circumstances, the owner could apply to the Board of Appeals for permission to rent both the principal dwelling and the ADU for a limited period.

Ms. Morris clarified that the ordinance would not establish an exhaustive list of circumstances qualifying for the exception. Rather, she said the Board of Appeals would consider each application individually and determine whether good cause existed to temporarily waive the owner-occupancy requirement. She confirmed that, if an exception were granted, an absent owner could be permitted to rent both the principal dwelling and the ADU simultaneously for the approved period.

Members distinguished circumstances involving a legitimate need for temporary relocation from routine seasonal absences, such as an owner choosing to reside in another state for several months. Members also expressed concern about responsibility for property maintenance and neighborhood-related issues during an owner's absence. Ms. Morris noted that the Board of Appeals could impose appropriate conditions as part of any approval. Members generally recognized the provision as a way to maintain the ordinance's owner-occupancy requirement while providing limited flexibility for circumstances warranting temporary relief. Ms. Morris said it would be difficult to identify every possible qualifying circumstance within the ordinance and that the Board of Appeals process would provide flexibility for legitimate cases while ensuring exceptions were not automatically or easily granted.

She then reviewed proposed revisions to the amnesty program for existing ADUs. She noted that observations of existing structures throughout Town suggested that some units may exceed the proposed maximum of 600 square feet of livable space and that certain properties may contain more

than one existing unit. She indicated that properties containing multiple units would present separate issues requiring review by the appropriate Town department.

To address existing ADUs exceeding the proposed 600-square-foot maximum, Ms. Morris presented a new concept for consideration. Under the proposal, she said an existing ADU of up to 800 square feet could potentially qualify for amnesty, subject to an additional ADU-related fee for the portion of the unit exceeding 600 square feet. Existing ADUs larger than 800 square feet and up to 1,200 square feet could be required to obtain approval from the Board of Appeals. Ms. Morris emphasized that the concept was developed for discussion and invited members to provide direction on how larger existing units should be treated.

Councilmember Orris questioned the rationale for allowing existing ADUs exceeding 600 square feet to qualify for amnesty when newly established ADUs would be limited to 600 square feet. Ms. Morris explained that applying a strict 600-square-foot limitation to existing units could create practical difficulties for units that only modestly exceed the maximum. By way of example, she noted that an otherwise qualifying 650-square-foot ADU could be rendered ineligible for amnesty or potentially require physical alteration solely to comply with the size limitation. She asked whether members would instead prefer to allow existing ADUs to qualify for amnesty regardless of size.

Members discussed the competing considerations associated with granting amnesty to larger existing ADUs. Ms. Morris noted that larger units could have greater infrastructure impacts and suggested that an additional fee could account for those impacts while still allowing an otherwise qualifying existing unit to remain. Conversely, Mr. Cosby cautioned that unrestricted amnesty could unintentionally benefit property owners who established dwelling units without complying with applicable requirements.

Mayor Tyndall emphasized the need for a practical mechanism to bring existing ADUs into compliance and onto the Town's official records. He noted that if the amnesty requirements were too restrictive, owners might be discouraged from disclosing existing units. Ms. Hardesty added that registration or licensing was important not only for regulatory purposes but also for public safety, noting that an occupied accessory dwelling unknown to the Town or emergency responders could create challenges during an emergency.

Ms. Morris explained that applicants seeking amnesty would be required to provide evidence that the ADU existed before the applicable cutoff date, along with documentation of any building, electrical, and plumbing approvals. She acknowledged, however, that some existing units may have been constructed without all required permits.

Mr. Widdowson raised a separate concern about the construction sequence when a property owner proposes both a primary dwelling and an ADU on a vacant lot. He noted that an applicant could potentially obtain approval for both structures, construct and occupy the smaller ADU first, and indefinitely postpone construction of the primary residence if the building permit contained no meaningful completion deadline. Ms. Morris stated that the ordinance was intended to prevent that outcome by requiring the ADU to be constructed concurrently with or after the primary dwelling.

Mr. Hall expressed concern that the proposed amnesty program could unintentionally incentivize owners of existing garages, studios, or other accessory structures to claim those structures were already being used as ADUs to receive more favorable treatment. He noted that the amnesty provisions could allow

greater square footage and reduced fees than the requirements applicable to a new ADU conversion.

Ms. Morris responded that an owner would need to provide evidence showing the structure was occupied and used as an ADU as of October 1, 2025. Members discussed the challenges associated with establishing historical use and the types of evidence that might be considered, including testimony from neighbors and other supporting documentation.

Members also expressed concern that, despite the proposed cutoff date, the amnesty program could encourage property owners to attempt to establish or characterize units as qualifying ADUs before the amnesty application period closes. Ms. Morris reiterated that the requirement to demonstrate qualifying use as of October 1, 2025, was intended to prevent that result. Mayor Tyndall emphasized the need for an objective standard for determining eligibility and reiterated that the broader purpose of the amnesty program was to encourage owners of existing unregistered ADUs to come forward so those units could be documented and brought into compliance.

The group discussed the process that would apply after the proposed amnesty period ends on April 1, 2027. Ms. Morris explained that an owner who did not participate in the amnesty program would thereafter be required to pursue approval through the standard process. Members raised questions regarding properties containing multiple unregistered or noncompliant units, particularly because the proposed amnesty program would not apply to multiple ADUs on a single property. They also questioned how the Town would respond if an owner declined to seek amnesty and continued renting non-compliant units.

Ms. Morris stated that continuing violations would be subject to enforcement and fines. Mayor Tyndall noted that the proposed penalties were being strengthened to more closely align with the Town's short-term rental enforcement provisions. Ms. Morris explained that the revised enforcement language would provide an initial 30-day warning, followed by a \$ 100-per-day fine and, for continued violations, \$200 per day. She added that the Town could seek injunctive relief requiring an owner to discontinue unlawful occupancy. Mayor Tyndall suggested the ordinance should also include an appropriate mechanism to revoke or otherwise terminate ADU authorization when violations persist.

Councilmember Orris returned to oversized ADUs that had previously been created or occupied without proper authorization. Ms. Morris described the proposed graduated approach, explaining that an existing ADU between 600 and 800 square feet could qualify for amnesty upon payment of an additional ADU-related fee, adding that an existing ADU greater than 800 but no more than 1,200 square feet would require Board of Appeals approval and would also be subject to the additional fee. She noted that, alternatively, the ordinance could require Board of Appeals approval for every existing ADU exceeding 600 square feet.

Councilmember Green supported retaining the graduated approach, noting that the 600-square-foot limitation was itself a newly established standard and that some flexibility for existing units was reasonable. Members also supported Board of Appeals review for substantially oversized units because that process provides additional accountability, notice to neighboring property owners, and an opportunity for public input. Mayor Tyndall observed that the proposed process would provide a mechanism for bringing existing units into compliance without granting automatic approval. Following further discussion, members expressed general support for the graduated approach while acknowledging that no regulatory framework could anticipate every circumstance.

Councilmember Orris then asked the group to consider written comments from a Town resident about potential stormwater impacts associated with ADU development. As summarized during the meeting, the resident's comments expressed concern about the long-term effects of ADU development on impervious surface, particularly within impaired watersheds and areas with a history of flooding. The comments noted that the Town's existing stormwater regulations use a 5,000-square-foot disturbance threshold, which may not adequately account for smaller development projects that incrementally increase impervious surface over time.

Ms. Morris said the comments raised important issues but suggested stormwater management would benefit from a broader, more comprehensive review rather than being addressed solely through the ADU ordinance. She specifically raised concerns about situations where stormwater is discharged onto another property and suggested documenting such arrangements through a recorded covenant or similarly enforceable agreement rather than an informal letter of permission. Although she was not opposed to incorporating stormwater-related provisions into the ADU ordinance, she questioned whether a comprehensive amendment to the Town Code would be more appropriate.

Mr. Hall raised a related concern regarding whether the Town has a reliable baseline documenting existing impervious surface on individual properties. Without such a baseline, he noted, it could be difficult to measure cumulative impacts or determine when stormwater-management requirements should apply. He suggested that building-permit applications for new ADU structures should, at a minimum, document existing impervious surface and that the Town should consider establishing minimum stormwater-management requirements for construction involving grading or other development activity associated with ADUs.

Ms. Morris agreed these concepts warranted further consideration but said any ADU-specific requirement should distinguish between new construction and converting an existing structure. She noted that converting an existing building generally would not alter the structure's existing stormwater impact. Mr. Chandler observed, however, that a conversion could still increase impervious surface if additional parking or other improvements were constructed in connection with the ADU.

Mayor Tyndall agreed that a comprehensive approach applicable to development generally might be preferable to imposing requirements specifically on ADUs. As an interim measure, Ms. Morris suggested adding language stating that building permits for new accessory dwellings are "encouraged" to incorporate on-site stormwater management rather than making such measures mandatory. She noted that engineered stormwater-management plans can impose significant design and cost requirements. Members expressed support for encouraging on-site stormwater management for new ADU construction while the Town undertakes a broader review of its stormwater regulations.

Members then discussed whether building-permit submissions would provide sufficient information to identify impervious surfaces and track cumulative development. Mr. Hall raised concern that a property owner could undertake several smaller projects over time, each falling below the 5,000-square-foot threshold, while collectively creating a substantial increase in impervious surface. Ms. Hardesty explained that the Town currently relies on surveys submitted with applications and calculates square footage from those documents, referring projects that exceed the applicable threshold for additional review. Mr. Pfeffer described practices used in other municipalities where applicants are required to submit a survey prepared by a licensed surveyor identifying both pervious and impervious lot coverage.

He noted that such a requirement could provide property-specific information without requiring a Town-wide mapping layer, although the Town would need to incorporate corresponding provisions into its general code.

Mayor Tyndall summarized the revisions identified during the work session and indicated that Ms. Morris would incorporate them into the ordinance. He stated that the proposed changes did not appear to alter the ordinance so substantially as to preclude it from moving forward to the Public Hearing scheduled during the Regular Session immediately following the work session. He then asked members whether they were comfortable advancing the ordinance for consideration at the Public Hearing.

Mr. Hall sought clarification regarding the Planning Commission's role in reviewing new ADU construction and conversions. Ms. Morris confirmed that the Planning Commission would review applicable ADU applications outside the Historic District, except for matters handled exclusively through the Board of Appeals process.

With no further matters raised, Mayor Tyndall adjourned the work session and announced that the regular session would begin approximately five minutes later. He directed Ms. Morris to incorporate the revisions identified during the work session into the ordinance materials for presentation during the Regular Session meeting.

Following no further comments, Mayor Tyndall adjourned the work session meeting at approximately 6:05 PM.

Respectfully submitted,



Kate Daub

Associate Town Administrator

* R. Hardesty followed up with the appropriate agency of Worcester County and it was determined that ½ addresses were not permissible within the County, therefore the designation would need to be "Unit" followed by a number or letter.



BERLIN MAYOR AND COUNCIL
Meeting Minutes
Monday, September 28, 2026

6:00 PM REGULAR SESSION – Worcester County Library – Berlin Branch

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

Staff Present: Town Administrator Mary Bohlen, Associate Town Administrator Kate Daub, Finance Director Natalie Saleh, Police Chief Howard Drewer, Acting Planning Director Ryan Hardesty, Water Resources Director Jamey Latchum, Public Works Director Jimmy Charles, Mayor's Executive Assistant Sara Gorfinkel, and Human Resources Director Kelsey Jensen.

This meeting was also broadcast live via Facebook. After the moment of silence and the Pledge of Allegiance, Mayor Tyndall called the meeting to order at approximately 6:21 PM.

1. Approval of Minutes:

- a) Work Session Minutes of 9.14.26
- b) Regular Session Minutes of 9.14.26

On the motion of Councilmember Orris, seconded by Councilmember Knerr, the minutes of 9.14.26 were approved by the following vote:

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

2. Presentation(s):

- a) Citation – Recognition of Town Administrator Mary Bohlen's Years of Service and Retirement

Mayor Tyndall recognized Town Administrator Mary Bohlen during what he described as her final Mayor and Council meeting after 35 years of service to the Town of Berlin. He noted that although she agreed to remain with the town through the municipal election process because of the Town Administrator's responsibilities in conducting elections, this would be her last regular council meeting. He thanked her for agreeing to stay on through that period and expressed the town's appreciation for her dedication. Mayor Tyndall presented her with flowers on behalf of the Mayor, Council, town employees, and residents, and mentioned that a retirement celebration was planned for the following week.

As he read a formal citation, Mayor Tyndall reflected on Ms. Bohlen's long career, noting that she began working for the town on July 5, 1991. He said she had begun in customer service before serving as Grants Administrator, Special Projects Administrator, Deputy Town Administrator, Acting Town Administrator on multiple occasions, and eventually Town Administrator. He remarked that it took some persuasion to convince her to accept the Town Administrator role, but said she did a

fabulous job in the position. He said many of the administration's accomplishments would not have been possible without her support and assistance. He thanked her for her leadership, dedication, and commitment to Berlin's residents, visitors, and employees, describing her contributions as invaluable and recognizing her steady presence over three and a half decades of service.

b) Summary of Reconnecting Neighborhoods Grant, work completed in Phase 1 and plans for Phase 2

Mayor's Office Executive Assistant Sara Gorfinkel and Bike and Pedestrian Coalition Chairperson Patti Stevens attended the meeting to present. Mayor Tyndall thanked them for their work on the project. He said they had successfully navigated numerous challenges, including funding reductions, efforts to restore funding, community engagement, and changes in vendors and agency personnel. He described their work as phenomenal and said the town was extremely grateful for their efforts.

Ms. Gorfinkel explained that the project's most significant outcome was that Berlin had successfully moved into Phase 2 of the grant process. She said this had not been guaranteed after a large portion of the project's funding was rescinded. She noted that the grant's original concept was to build a pedestrian bridge over Route 113, but the feasibility study and extensive public engagement during Phase 1 ultimately steered the project in a different direction. She said the study revealed that Berlin would be better served by lowering speed limits along Route 113, improving pedestrian crossings at major intersections, and creating a shared-use path along the corridor.

Ms. Gorfinkel reviewed the background information used in the original grant application, explaining that Route 113 creates both physical and socioeconomic divisions within Berlin. She said residents on the eastern side of the highway face challenges accessing destinations such as the grocery store, hospital, and other community resources due to limited pedestrian connectivity. Working with engineers through the Maryland Department of Transportation, the town studied three major intersections along Route 113: Old Ocean City Boulevard, Flower Street, and Main Street/Germantown Road. She said the analysis focused on both where people needed to travel and the obstacles they faced when crossing.

She explained that engineers initially explored possible locations for a pedestrian bridge, particularly near Henry Park where land ownership issues would be less complicated. However, Ms. Gorfinkel said that throughout the public engagement process, residents repeatedly expressed concerns that a bridge would not be convenient for everyday travel. She said people noted that they would often have to go significantly out of their way to reach the bridge and believed many residents would continue crossing Route 113 at grade rather than using a distant structure.

As a result, Ms. Gorfinkel said the study concluded that spending a large amount of money on a single bridge serving only one location was not the most effective solution. She explained that the bridge would also create ongoing maintenance responsibilities for the town. Instead, the study recommended focusing on three strategies: lowering speed limits, improving pedestrian accommodation at all major intersections, and designing a shared-use path. She said those improvements would benefit the entire corridor and could be achieved at a much lower cost.

Discussing progress already made, Ms. Gorfinkel reported that conversations with Maryland State Highway Administration District 1 officials had been very encouraging. She said the state indicated that reducing speed limits along Route 113 was feasible and could be accomplished relatively quickly through coordination among the appropriate agencies. She also said site visits with state engineers produced immediate results. When officials reviewed conditions near the hospital and Food Lion, they recognized that pedestrian infrastructure improvements were incomplete and

agreed additional work was needed to improve safety. According to Ms. Gorfinkel, District 1 had already begun reviewing opportunities to use existing highway safety funding to make improvements at those locations without requiring town funding.

She also spoke about plans for a shared-use path along Route 113. Although she acknowledged numerous technical challenges involving design, easements, and engineering, she said state officials viewed the concept very favorably and considered it a practical way to improve mobility and connectivity throughout Berlin. Ms. Gorfinkel added that she now felt much more confident these improvements would be completed than she had about the original bridge proposal.

Turning to funding, Ms. Gorfinkel credited Mayor Tyndall's advocacy efforts to help the town recover from the loss of federal dollars. She explained that, through discussions with transportation officials and help from the National League of Cities, the town identified an unused federal earmark it could redirect to Berlin. She said the town could combine those funds with County Rails to Trails funding already available, allowing Berlin to meet matching requirements and move into the next phase. The resulting funding package will support design work, pre-construction activities, and further planning for the recommended improvements.

Ms. Stevens then described what she called a major shift in attitude among state transportation officials over the course of the project. She said that through public meetings, community feedback, data collection, photographs, and presentations, what originally seemed like an ambitious vision gradually became viewed as a common-sense transportation solution. She recalled that residents consistently explained why a single pedestrian bridge would not fit the way people actually move around Berlin. She said those practical observations helped transportation officials better understand the community's needs.

Ms. Stevens added that transportation engineers often bring solutions that work well in larger urban settings but are less effective in smaller rural communities. She said the town's extensive public engagement process successfully communicated those distinctions and helped shape a more appropriate plan for Berlin. She reported that she and Ms. Gorfinkel had recently drafted the scope of work for Phase 2 and submitted it to the state, which was already moving it through the contracting process. According to Ms. Stevens, consultants would soon begin design work related to the recommended improvements.

She also noted that state transportation officials had expanded their focus beyond the project's original scope. After observing students and residents walking along Old Ocean City Boulevard and other nearby areas, the state committed to pursuing additional improvements there as well. Ms. Stevens concluded by saying that the project had evolved into something more beneficial than originally envisioned. She expressed excitement that Berlin now had an opportunity to achieve broader safety and connectivity improvements that would serve more residents than the originally proposed pedestrian bridge.

Councilmembers supported the project's direction and noted that the new recommendations seemed far more achievable than the original bridge proposal. Councilmembers raised questions about sidewalk improvements along Old Ocean City Boulevard west of Main Street. Ms. Gorfinkel explained that the state had identified pedestrian accessibility and connectivity improvements in that area as an important need. She said the town has advocated for sidewalks along Old Ocean City Boulevard for years through multiple channels, including annual transportation priority requests to the state. While state officials have acknowledged the need, she explained that available construction funding remains limited because projects not already included in the state's six-year transportation plan face significant funding challenges.

The discussion also touched on recently installed crosswalk improvements. Ms. Gorfinkel explained that town officials' years of advocacy led to those enhancements. She noted that staff consistently raised the need for crosswalks during meetings with state transportation officials and that the visible improvements now appearing throughout town reflected those continuing efforts. Mayor Tyndall added that the town is still discussing additional safety enhancements near the war memorial intersection, including roadway markings intended to improve driver awareness without adversely affecting the area's appearance.

Several councilmembers expressed excitement that public participation had significantly influenced the project's outcome. Councilmember Orris said many residents who attended meetings and shared their thoughts helped shape a solution that was more practical and beneficial than the original concept. He also expressed satisfaction that the council was leveraging funding from the former Rails to Trails initiative as part of the overall funding strategy. Ms. Gorfinkel clarified that while portions of existing funding were being used as matching funds for grant requirements, the broader Rails to Trails concept had not been abandoned and remained a separate initiative for future consideration.

Ms. Gorfinkel added that while the pedestrian bridge may no longer move forward, she remained proud of the original proposal. She explained that the ambitious bridge concept likely helped Berlin secure the federal grant because the program specifically sought bold, transformative ideas that would reconnect divided communities. She said the bridge concept allowed the town to secure funding and begin a process that ultimately identified more effective solutions. Ms. Stevens agreed, explaining that the real objective had always been to solve the challenges created by Route 113 and reconnect neighborhoods within Berlin. In her view, the town had successfully achieved that objective by identifying a comprehensive set of improvements that could realistically be implemented.

Mayor Tyndall observed that the outcome also demonstrated that local government in Berlin responds to public feedback rather than simply pursuing predetermined plans. He said the process proved that community engagement can directly influence decision-making and produce tangible results. Ms. Stevens also noted that this effort has expanded Berlin's leadership role in statewide pedestrian safety discussions. She explained that local officials now have direct relationships with state leaders working on pedestrian safety initiatives and expressed confidence that Berlin could become a model community for transportation and pedestrian improvements elsewhere in Maryland.

4. Public Hearing(s): (First Readings held on Monday, September 14, 2026)

- a) Ordinance 2026-06: Amending Chapter 16, Entitled Fire Prevention and Protection, Article II, Entitled Outdoor Burning

Acting Planning Director Ryan Hardesty presented Ordinance 2026-06, which amended Chapter 16 of the town code on fire prevention and protection, specifically outdoor burning regulations. Ms. Hardesty explained that the ordinance established additional requirements for authorized burns and clarified notification responsibilities.

Mayor Tyndall opened the public hearing at 6:41 PM.

Following no public comments, Mayor Tyndall closed the public hearing at 6:42 PM.

On the motion of Councilmember Orris, seconded by Vice President Burrell, Ordinance 2026-06: Amending Chapter 16, Entitled Fire Prevention and Protection, Article II, Entitled Outdoor Burning, was approved by the following vote:

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

5. Discussion(s):

a) Sale of Parcel 57

The Council considered the sale of Parcel 57 to Coastal Ventures Properties, LLC, which had assigned its interests to Heron Park Development LLC under provisions already in the development agreement. Mayor Tyndall directed council members to a revised settlement sheet included in their meeting packets.

He explained that one proposed change involved reimbursement for a previously approved traffic study costing \$14,250. While the council had already agreed to reimburse that expense, he noted that the original arrangement called for reimbursement after closing. He added that the developer requested that the payment be included directly on the settlement statement so the funds would be deducted at closing.

Mayor Tyndall further explained that the developer requested reimbursement for one-half of the costs of engineering and design work evaluating the possibility of a four-way stop at the intersection near Cheers and Old Ocean City Boulevard. He reported that the total study cost was \$4,500, with the developer requesting that the town pay \$2,250 and the developer absorb the remaining half. Because that reimbursement exceeded what the council had originally approved, he explained that it required additional authorization.

Additionally, Mayor Tyndall explained that the study evaluated whether a four-way stop might be appropriate at the intersection but did not guarantee that a four-way stop would ultimately be installed. Rather, he said the study was intended to provide engineering analysis and recommendations. He then explained that the developer had already paid for the study and was asking the town to share in the expense after the fact.

On the motion of Councilmember Knerr, seconded by Councilmember Orris, motion to approve the Parcel 57 settlement sheet, including the town's \$2,250 share of the cost, was approved by the following vote:

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

Voting Tally	5				
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b) Sidewalks

Town Attorney David Gaskill revisited a discussion that began during an August 10th Mayor and Council meeting about whether the town should assume responsibility for repairing and maintaining sidewalks along town streets. Mr. Gaskill explained that the council's general direction appeared to favor shifting responsibility for structural sidewalk repairs from individual property owners to the town. Ms. Bohlen noted that staff had continued exploring what such a program would look like and needed additional guidance regarding practical issues such as snow removal, routine maintenance, and ongoing responsibilities if the town assumed greater ownership of sidewalk repairs.

Councilmember Orris clarified that he did not get the impression from the group that the intent was not to have the town construct new sidewalks but rather to repair and maintain existing ones. The discussion then shifted to new development requirements. Vice President Burrell questioned whether current rules requiring sidewalks in front of certain new homes always make sense, citing examples of isolated sidewalk segments that do not connect to any larger pedestrian network. Mayor Tyndall suggested that requiring sidewalks in every circumstance can impose unnecessary costs on builders and property owners while providing little public benefit.

The Council also discussed how any expanded repair program would interact with the town budget. Ms. Bohlen explained that the existing cost-share program already depends on annual funding appropriations and suggested that any future sidewalk repair program should remain subject to available budgeted funds. A lengthy discussion followed regarding what exactly constitutes "maintenance." Councilmember Knerr said he envisioned the town assuming responsibility only for structural repairs, while leaving snow removal, weeding, debris removal, and similar routine upkeep to adjacent property owners.

Discussion then turned to a pending sidewalk-related request from the Berlin Fire Company. Mayor Tyndall explained that the Fire Company had applied through the town's existing sidewalk cost-share program. Although the request involves sidewalk repairs, he said the sidewalk is closely connected to a driveway used by emergency vehicles entering and exiting the fire station. Mayor Tyndall acknowledged that approving assistance for the fire company could set a precedent for other property owners seeking similar help where driveways and sidewalks overlap.

He continued, saying the Fire Company request should move forward because of its public safety importance, while also recognizing that the broader policy implications needed further study. Questions were also raised regarding permitting requirements. Ms. Hardesty explained that permits would still be required for sidewalk work occurring within the public right-of-way, both to ensure compliance with standards and to allow the town to review proposed repairs.

The discussion concluded with concerns about fairness and consistency. Mayor Tyndall pointed out that many sidewalks in Berlin front state highways such as Main Street, Broad Street, and Bay Street rather than town-owned roadways. He asked how residents would react if the town funded repairs on municipal streets but not on state-owned roads. The Council acknowledged that such a policy could create tension among residents and agreed that it would require further evaluation before finalizing any ordinance revisions.

Questions were raised about how towns such as Snow Hill, Pocomoke City, Ocean City, and even communities like Montego Bay handle sidewalk ownership, repairs, and cost recovery. Mr. Gaskill described how residents in Ocean City's Montego Bay community received notice that sidewalks

would be replaced and were then billed for the work. Mayor Tyndall asked staff to research how nearby jurisdictions manage sidewalk repairs, what cost-sharing mechanisms they use, and how they address situations where property owners fail to pay.

The conversation then shifted to Walnut Hill, where ongoing sidewalk deterioration has created public safety concerns. Councilmember Green recommended beginning to evaluate the most critical sidewalk repair areas and estimate costs so available budgeted funds could potentially address the worst conditions. Public Works Director Jimmy Charles explained that the town had already examined sidewalk conditions in Walnut Hill and had estimates related to potential repairs. However, he noted that ownership questions remain unresolved because the town owns the streets, but not necessarily the sidewalks.

Mayor Tyndall explained that adopting the ordinance discussed earlier could resolve some ownership questions, but it would also create new policy challenges that should be carefully considered before moving forward. Mr. Gaskill noted that Walnut Hill's situation is further complicated by the neighborhood's homeowner's association and the mature walnut trees that largely damage many sidewalks. According to Mr. Gaskill, the HOA governing documents assign responsibility for the trees to the community, and the neighborhood's design and identity intentionally incorporated them.

Councilmembers discussed whether public funds should repeatedly repair sidewalks that tree roots will continue to damage over time. Vice President Burrell argued that if taxpayer dollars are spent on sidewalk repairs, the repairs should provide long-term value and not require recurring reconstruction every few years. Mayor Tyndall noted that discussions with Walnut Hill representatives have been ongoing for years and that staff has explored alternatives that could improve safety without simply recreating the same conditions that caused the sidewalks to fail. He emphasized that public safety is the primary concern, especially in areas where children and pedestrians risk tripping and falling.

While several members supported finding a solution, they agreed that additional consideration is needed before spending any of the currently budgeted sidewalk funds. Ms. Bohlen indicated that the money remains available during the current fiscal year and that there is no immediate pressure to commit the funds before policy questions are resolved. Mayor Tyndall directed staff to continue researching options and return with information organized around key policy questions for a future discussion.

4. *(Continued)* Public Hearing(s): (First Reading held on Monday, September 14, 2026)
 - b) Ordinance 2026-07: Amending Chapter 108, by adding a new section 719 in Section of Article II, Entitled "Accessory Dwelling Units"

Mayor Tyndall introduced Town Legal Consultant Emily Morris to review revisions to the proposed accessory dwelling unit (ADU) ordinance discussed during the evening's earlier joint work session with the Planning Commission. As she walked through the proposed changes, Ms. Morris explained that the ordinance defines a dwelling unit as a single residential unit that provides complete and independent living facilities for no more than two adults. She said the definition includes permanent provisions for sanitation, cooking, eating, sleeping, toileting, bathing, and other functions associated with daily living. She added that the ordinance would allow up to two children or wards, age 17 or younger, to live with the adult occupants. Ms. Morris noted that the definition specifically excludes multifamily apartment units, manufactured homes not attached to permanent foundations, mobile homes, recreational vehicles, trailers, and other structures designed to be relocated.

Continuing her presentation, Ms. Morris reviewed provisions governing detached accessory dwelling units. She explained that a detached ADU could be constructed at the same time as the principal residence, but it could not be occupied until the primary dwelling had been fully completed and was ready for occupancy. She also highlighted a requirement that each approved ADU receive a separate half-address to assist emergency responders and support public safety needs.

Ms. Morris then discussed newly added stormwater management language. She said the ordinance encourages applicants, whenever feasible, to incorporate on-site stormwater management practices capable of addressing runoff generated by the ADU and any associated impervious surfaces such as driveways, additions, or decks. She noted that recommended methods could include rain gardens, dry wells, rainwater harvesting systems, and other stormwater management techniques already recognized elsewhere in the town code. Mayor Tyndall directed council members and residents to several sections of the meeting packet, including the full ordinance text, a marked-up version showing revisions discussed during prior work sessions, and a summary document outlining the proposal. Ms. Bohlen clarified that the marked-up version included in the packet did not yet reflect the latest changes reviewed during the meeting.

During the discussion, Councilmember Orris thanked Ms. Morris for adding stormwater management language to the ordinance and said he was encouraged to hear that a broader review of the town's stormwater regulations was being considered. He stated that Berlin's stormwater policies are overdue for a comprehensive evaluation and viewed the ADU ordinance as only one piece of a much larger conversation about flooding, drainage, and runoff throughout the community. Mayor Tyndall then opened the public hearing at 7:17 PM. Before taking comments, he provided a reminder that Maryland law requires municipalities to adopt accessory dwelling unit regulations by October 1st, 2026.

Resident Edward Hammond said he strongly supported the inclusion of stormwater management provisions in the ordinance but believed those requirements should be mandatory rather than voluntary. He argued that allowing accessory dwelling units will inevitably increase impervious surface coverage throughout town and said it would not be unreasonable to require property owners to mitigate the additional runoff created by those improvements.

While thanking the Mayor and Council for including stormwater considerations in the draft, Mr. Hammond described the provision as only a first step. He said Berlin continues to struggle with flooding and drainage problems that have been compounded by development decisions made over many years. He pointed to recent examples where additional impervious surfaces had been added in areas already experiencing drainage issues and expressed concern that existing regulations do not adequately address cumulative impacts over time. He encouraged the Council to view the ADU ordinance as the beginning of a larger effort to modernize the town's stormwater management standards, noting that Berlin has already spent significant time, money, and resources addressing flooding issues that could potentially be reduced through stronger stormwater requirements.

Mayor Tyndall closed the Public Hearing at 7:22 PM.

On the motion of Councilmember Green, seconded by Councilmember Orris, motion to approve Ordinance 2026-07: Amending Chapter 108, by adding a new section 719 in Section of Article II, Entitled "Accessory Dwelling Units", was approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Dean Burrell, VP	X				
Steve Green	X				

Jay Knerr	X				
Shaneka Nichols	X				
Jack Orris	X				
<i>Voting Tally</i>	5				

6. Items) for Approval:

Mayor Tyndall revised the agenda to consider Item 6d first to accommodate those in attendance on behalf of the motion.

c) Motion 2026-37: Real Property Tax Abatement 9930 Deer Park Road

Mr. Gaskill explained that the Council had discussed the matter earlier in the summer, but took no formal action then. He said the item was returning to the agenda so the Council could complete the process. Mayor Tyndall asked whether Council members had any questions. Hearing none, he invited comments from the property owners, Michael and Kathy Cluster, who were present at the meeting. They indicated they simply hoped to have the matter finalized. Mayor Tyndall responded that the town also wanted to help them resolve the issue.

On the motion of Councilmember Orris, seconded by Councilmember Nichols, motion to approve Motion 2026-37: Real Property Tax Abatement 9930 Deer Park Road, was approved by the following vote:

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

Following the vote, staff discussed logistical details regarding signatures and final paperwork. Ms. Bohlen explained that clean copies of the documents would be available the following morning and coordinated with the property owners and Mayor Tyndall to obtain the necessary signatures.

a) Resolution 2026-07: Re-establish Equivalent Dwelling Unit (EDU) Financing Policy

Ms. Bohlen explained that the resolution reflected the direction discussed at the previous Council meeting. She said the revised policy creates two financing tiers, noting that Tier One applies to one through three EDUs and allows repayment over a twenty-four-month period, and Tier Two applies to four or more EDUs. She explained that the policy also establishes a five-percent financing and administrative fee.

She also noted that several provisions already contained within existing agreements, including the town's ability to place a lien on a property for nonpayment, remain unchanged. She reminded the Council that the policy would be applied on a case-by-case basis and would primarily serve as a tool that could be used when needed rather than something automatically applied to every situation. She said the intent was to have a policy in place so future Councils would not need to revisit the issue each time a financing request arose.

Councilmember Orris asked whether the title should be modified to clarify that the financing policy applies only to situations involving EDU compliance or "true-up" calculations rather than new development. Ms. Bohlen responded that the resolution already states it applies when additional EDUs are required based on actual usage determinations.

On the motion of Councilmember Knerr, seconded by Vice President Burrell, Resolution 2026-07: Re-establish Equivalent Dwelling Unit (EDU) Financing Policy, was approved by the following vote:

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

b) Resolution 2026-08: Updated Town Fee Schedule to include addition of ADU-related permit fees

Ms. Morris presented Resolution 2026-08 to update the Town fee schedule to include permit fees and enforcement provisions associated with the newly adopted ADU regulations. Ms. Morris explained that the proposed schedule includes a \$300 amnesty registration fee and a \$500 registration fee thereafter. She said conversions of existing accessory structures would be charged \$350, reflecting the Town's desire to encourage the reuse and conversion of existing buildings instead of the construction of entirely new structures.

Ms. Morris also described a new certificate process through which property owners may obtain an official document verifying that an accessory structure has been authorized as an ADU. She said some owners may choose to record the certificate voluntarily, while in certain cases involving historic district approvals or environmental considerations, it would be required. She added that the proposed fee for that certificate would be \$150.

She further explained that the resolution establishes fines for unregistered ADUs beginning April 1, 2027. Under the proposal, she explained that properties operating an unregistered ADU would be subject to a \$100-per-day fine. If the violation continued after a thirty-day warning period, she noted the penalty would increase to \$200 per day. Ms. Morris said separate housing code violations would carry fines of \$100 per week until certificate-of-occupancy issues were resolved.

Councilmember Knerr asked whether thirty days would provide sufficient time for a property owner to come into compliance after receiving a notice of violation. Ms. Morris explained that the purpose of the thirty-day period was not to allow enough time to complete permits, inspections, and construction corrections. Instead, she said the expectation would be that the owner cease the unauthorized use of the dwelling unit until compliance could be achieved. Councilmember Nichols then raised concerns about situations involving tenants already living in an unregistered ADU and questioned whether renters could have legal protections requiring additional notice before vacating. Ms. Morris responded that landlord-tenant law was outside her area of expertise, and the discussion was poised to continue into broader questions about enforcement and tenant rights.

Councilmember Nichols sought clarification about how the proposed ADU enforcement process would work when tenants were already occupying an unauthorized unit. Ms. Morris said she could not speak in detail about landlord-tenant law but noted that the ordinance provides the Town with

the ability to seek injunctive relief through the courts if necessary. Councilmember Knerr said his concern was that tenant removal can be a lengthy process and asked whether the Town could quickly require a tenant to vacate. Ms. Morris responded that such matters are generally not the Town's responsibility. She explained that the Town's role is to ensure the property owner complies with local regulations. If a property owner chooses to rent a unit that is not legally authorized, she said that responsibility rests with the owner rather than the Town.

The discussion continued as Councilmember Nichols described potential situations in which a tenant refuses to vacate an unauthorized ADU after the property owner is notified of a violation. Ms. Morris emphasized that the Town's enforcement efforts would be directed at the property owner, not the tenant. She explained that the Town would continue assessing fines until the property was brought into compliance and would not waive penalties simply because the owner had chosen to lease a unit that was not legally authorized. While acknowledging that these situations could create challenges for property owners, she reiterated that landlord-tenant disputes fall outside the Town's responsibility and that compliance with local regulations ultimately rests with the property owner.

The conversation then shifted to the administration of the Town's growing inventory of licensing and registration programs. Councilmember Orris noted that the Planning Department is now responsible for tracking rental licenses and business licenses and asked whether additional software resources might eventually be necessary to manage ADUs, short-term rentals, and related programs. Ms. Hardesty explained that the Town already has access to a module within its existing Tyler Technologies software system that is designed to handle those functions. She said the Town is currently awaiting final authorization from Tyler before the module can be fully deployed and utilized.

Ms. Morris also informed the Council that the ADU ordinance was designed to accommodate future impact fees for larger units. She explained that the fee structure is tied to the size of the ADU relative to the primary residence and includes a formula that can be adjusted once the Town completes its impact fee study. Mayor Tyndall added that Beacon was prepared to present information related to the study and staff were working through scheduling for a future presentation. Ms. Morris further highlighted a provision that allows residents who are at least 65 years old or who are recognized as disabled by the Social Security Administration to request a waiver of certain ADU-related fees. Councilmembers expressed appreciation for the inclusion of that provision.

On the motion of Councilmember Green, seconded by Councilmember Nichols, Resolution 2026-08: Updated Town Fee Schedule to include addition of ADU-related permit fees, was approved by the following vote:

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

- d) Motion 2026-56: Recommendation of Bid Award for RFP #2026-03 Berlin Lead Service Line Replacement, Phase 1 A

Mr. Nicholas Bradley with DBF Engineering presented the motion for approval to award the construction contract to Teal Construction in the amount of \$1,938,930. He explained that bids had originally been received on April 1st and his team had spent the intervening months securing

additional funding necessary to proceed with construction. Mr. Bradley noted that additional funding had recently been approved through the Maryland Board of Public Works, allowing the project to move forward.

Councilmember Orris asked whether Teal Construction was a new contractor for the Town. Water Resources Director Jamey Latchum indicated that the company had worked on previous projects and was highly qualified for this type of work.

On the motion of Vice President Burrell, seconded by Councilmember Knerr, Motion 2026-56: Recommendation of Bid Award for RFP #2026-03 Berlin Lead Service Line Replacement Phase 1 A, was approved by the following vote:

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

7. Reports: Town Administrator's Report/Department Reports

Associate Town Administrator Kate Daub reminded the group that upcoming meetings would be held at alternative locations because of scheduling limitations at Town Hall. She explained that all October meetings, as well as the first meeting in November, would take place at Buckingham Presbyterian Church on South Main Street. She also said a work session scheduled for October 19th would be held at the Berlin Police Department.

Mayor Tyndall noted that the October 13th meeting would begin at 7:00 p.m. because Town Code requires the organizational meeting following the municipal election to be held at that time. He explained that the meeting would begin with routine business before transitioning into the swearing-in of newly elected council members. He also reviewed the municipal election results. Because no write-in candidates filed by the required deadline, he said the election was canceled. As a result, the incumbents and unopposed candidates would assume office without a formal election.

Councilmember Knerr was congratulated on his reelection, while incoming council members Tony Weeg and Matt Stoehr were congratulated on their election to the Council. Mayor Tyndall also noted that Councilmember Green would be transitioning to a role as County Commissioner and Vice President Burrell would be concluding his service, with both recognized for their contributions to the Town. He reminded outgoing members that their final official meeting would be October 13th.

Ms. Bohlen then reiterated that this would be her final Council meeting and reflected briefly on her service. She said it had been an honor and a privilege to serve the Town and thanked them for the opportunity. Mayor Tyndall thanked her for her work and service.

Mayor Tyndall also recognized that Wastewater Superintendent Jamey Latchum had earned his Class 6 Wastewater Spray Irrigation certification and is now one of only two individuals in the State of Maryland with that designation.

8. Comments from the Public

Mr. Richard Dize of Pitts Street addressed the Mayor and Council regarding ongoing parking problems on his street. He said residents and visitors routinely park in front of fire hydrants, block sidewalks, and obstruct driveways. He said he has seen vehicles parked entirely on sidewalks, forcing pedestrians into the roadway. However, he said the issue that most frequently affects him is vehicles blocking his driveway, which he stated occurs almost every weekend.

Mr. Dize said he regularly contacts the Police Department when vehicles block his driveway, and officers typically respond quickly. He explained that officers often locate the owner of the vehicle and have it moved, but in his experience citations are rarely issued. He argued that motorists should be fined for blocking driveways rather than simply being told to move. Mr. Dize described situations in which he was unable to get into or out of his driveway because vehicles were parked across it and expressed frustration that violators faced no consequences beyond being asked to relocate their cars. He said the issue had reached a point where he no longer felt sympathetic toward offenders and wanted stronger enforcement. He added that police officers had suggested he bring the matter to the attention of the Council for consideration.

Police Chief Howard Drewer stated that the issue had already been discussed during a department head meeting. He explained that the Town had recently ordered four “No Parking, Do Not Block Driveway” signs that could potentially be installed in problem areas. He noted that similar concerns had been raised by other residents, including Mayor Tyndall, and that his department had explored possible curb-marking solutions.

Mr. Bartosz Rafinski addressed the Council regarding the Town’s smart meter opt-out fee case before the Maryland Public Service Commission. He said Council members have a responsibility to oversee Town administration and questioned the validity of a cost analysis submitted to support the opt-out fee. Mr. Rafinski argued that the study overstated both the time required to read meters and the administrative work associated with processing meter readings. Using his own calculations, he contended that the figures presented were inconsistent with the electric department’s budget and did not accurately reflect actual operating costs.

Mr. Rafinski also raised concerns about the case’s legal expenses. He said records he obtained showed approximately \$30,000 in legal fees had been incurred through the end of August and argued that the Town was spending significant taxpayer funds to defend a fee that affects only a small number of customers. He questioned whether the fee’s potential revenue would justify the ongoing expense and urged the Council to reconsider eliminating the smart meter opt-out fee altogether. He concluded that residents already pay substantial taxes and utility costs and should not have to pay additional fees to opt out of smart meters.

9. Comments from the Council

Councilmember Orris revisited his interest in participating in any future comprehensive review of the Town’s stormwater regulations. He said he would welcome the opportunity to assist staff and contribute to the discussion as the process moves forward. He asked Chief Drewer about changes involving automated traffic enforcement. Specifically, he asked whether municipalities now have greater authority to establish speed-camera corridors outside traditional school zones.

Chief Drewer responded that the issue remains more complicated than it may appear. He explained that ongoing litigation and regulatory questions about automated enforcement systems, including speed cameras and red-light cameras, have created uncertainty about implementation. He said speed cameras remain primarily limited to designated school zones, and broader expansion into other corridors, particularly state-controlled roadways, remains under debate. Downing noted that

past discussions about Route 50 faced challenges because the roadway falls under the jurisdiction of the Maryland State Highway Administration. He offered to provide Orris with additional information as more guidance becomes available.

Councilmember Orris thanked the Police Department for increased patrols in the West Street and Abbey Lane area, noting that residents had observed both the additional enforcement presence and Chief Downing's direct involvement. He said residents appreciated the extra attention.

He also briefly revisited the Town Hall renovations, noting the project appears to be progressing well. Looking ahead, he said he would like the Council to revisit discussions regarding the future of the Welcome Center building. Councilmember Orris referenced prior presentations and meetings with interested parties and suggested the Council keep the issue on its radar as renovation work continues.

Finally, Councilmember Orris shared a resident-raised idea regarding the future community center project. He asked whether the site could have a display or information board to keep the public informed about the project's progress. Ms. Gorfinkel responded that a QR code linking to updated project information would likely be a more effective and cost-efficient solution than printed materials, since it would allow real-time updates.

Councilmember Greene raised the issue of the Town's proposed smart meter opt-out fee. He said that after further consideration, reviewing information related to the Public Service Commission case, and observing a video showing how quickly a manual meter reading could be completed, he regretted his vote in support of the proposed \$17 monthly opt-out charge. He explained that he had recently discussed the matter with legal counsel and understood that if the Public Service Commission approves the proposed tariff, the Town would be required to charge the approved amount and would be unable to simply alter or waive the fee without going through an additional regulatory process. Because a decision in the case is not expected until December, Councilmember Green said he believed the Council still has an opportunity to reconsider its position before a final ruling is issued.

While emphasizing that he still supports the one-time opt-out fee approved as part of the program, he said he no longer supports the ongoing monthly charge. He noted that a \$17 monthly fee amounts to more than \$200 annually and exceeds \$2,000 over a ten-year period for residents who choose not to participate in the smart meter program. Councilmember Green then made a motion directing staff and legal counsel to explore available options with the Public Service Commission to delay or modify the pending proceeding related to the monthly opt-out fee. He said his goal was to preserve the Council's ability, and potentially the ability of the incoming Council, to reconsider whether the monthly charge is appropriate before a final decision is rendered.

Mayor Tyndall responded that the matter is more complicated than simply reversing course. He noted that the Town has already invested significant time and money in the Public Service Commission process, including legal expenses, filings, and hearings. He cautioned that substantially changing direction at this late stage could require repeating portions of that process in the future.

Mayor Tyndall also defended the rationale behind the fee, stating that residents who choose to opt out are requesting an alternative service method that requires additional staff time and separate administrative processes. He argued that without a cost recovery mechanism, the expense associated with servicing those accounts would effectively be shifted to other utility customers. He acknowledged frustrations with the regulatory process itself and reiterated that municipalities have

long advocated for greater local control over utility matters, but said current state law requires the Town to follow Public Service Commission procedures.

Finance Director Natalie Saleh explained that the opt-out program requires the Town to operate two separate systems simultaneously. They said maintaining mechanical meters, scheduling and conducting manual meter reads, creating separate data entry processes, generating specialized billing records, and preserving equipment and expertise for a small subset of customers all create ongoing administrative and operational costs. Ms. Bohlen noted that the formal position of the Public Service Commission and of the Office of People's Council was that any customer who opts out of the smart meter program must bear the cost and that the rest of the customer base should not subsidize those customers. She also emphasized that while serving ten customers may not seem significant today, the Town must establish a structure capable of handling future participation and ensuring costs associated with the opt-out program are properly accounted for.

As the discussion concluded, attention returned to Councilmember Green's motion. Mayor Tyndall stated that his concerns appeared to be more appropriately addressed through a legal inquiry rather than a formal motion. He suggested that Councilmember Green submit his questions in writing to Ms. Bohlen and Ms. Saleh so they could be forwarded to the Town's legal counsel for review.

10. Comments from the Mayor's Office – None.

11. Comments from the Press – None.

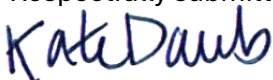
12. Adjournment:

Mayor Tyndall read the statutory Closed Session statement and outlined the purpose of moving into the closed meeting following adjournment of the Regular Session.

On a motion by Councilmember Orris, seconded by Vice President Burrell, motion to adjourn and go into Closed Session was approved by the following vote:

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

Respectfully submitted,



Kate Daub

Associate Town Administrator

CLOSED SESSION
MAYOR AND COUNCIL OF BERLIN MARYLAND
Monday, September 28, 2026

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

Staff Present: Town Administrator Mary Bohlen, Human Resources Director Kelsey Jensen, Associate Town Administrator Kate Daub, and Town Attorney Dave Gaskill

Others present: none

Location: Berlin Branch Library, 13 Harrison Avenue, Berlin, MD 21811

Authority to close session: Pursuant to Maryland General Provisions Article; Sec 3-305(b):

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

Beginning at approximately 8:38 PM, the motion and vote to go into Closed Session were held in the 2nd floor meeting room and streamed live via Facebook. Mayor Tyndall read the Closed Session Summary, which is attached and incorporated into these Minutes upon approval. With no questions or comments, Councilmember Orris moved to adjourn to Closed Session and Vice President Burrell seconded. The vote to proceed into Closed Session was as follows:

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

The Facebook feed was ended, and all others left the room.

REMAINDER OF MINUTES REDACTED FOR OPEN RECORD

Following a motion by Councilmember Nichols, second by Councilmember Orris, with all in favor, the Meeting adjourned at approximately 9:30 PM.

Respectfully Submitted,

Kelsey Jensen
Human Resources Director

Attachments: Closed Session Summary of September 28, 2026.



**BERLIN MAYOR AND COUNCIL
CLOSED SESSION**

Meeting Agenda

**Worcester County Library - Berlin Branch
13 Harrison Ave.**

Monday, September 28, 2026

***8:30 PM**

*(*immediately following Regular Meeting)*

1. Statement of closure – Mayor Zack Tyndall
2. Public comments or questions regarding the purpose for closure.
3. Motion to close and adjournment to Closed Session

Closed Session Agenda: STATUTORY AUTHORITY TO CLOSE SESSION, General Provisions Article §3- 305(b):

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

b. Personnel matter



Closed Session Summary

To be included in the minutes in the next Open Meeting

1. Statement of the time, place, and purpose of the closed session:

- Time of closed session: Monday, September 28, 2026, 8:30 PM (immediately following Regular Meeting)
- Place (location) of closed session: Worcester County Library, Berlin Branch, 13 Harrison Avenue Berlin, MD 21811, 2nd floor
- Purpose of the closed session: Personnel Matter
- Date and time that we will return to public meeting: Tuesday, October 13, 2026, 7:00 PM

2. Record of the vote of each member as to closing the session:

- Motion to close meeting made by: Councilmember Orris
- Second by: Vice President Burrell
- Members voting in favor: 5
- Members opposed: 0
- Members abstaining: 0
- Members absent: 0

3. Statutory authority to close session:

This meeting was closed under the following provisions of General Provisions Article § 3-305(b):

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

b. Personnel Matter

Listing of each topic actually discussed, persons present, and each action taken in the session:

Topic description	Persons present for discussion	Action taken/each recorded vote
Personnel Matter	Z. Tyndall, D. Burrell, J. Knerr, S. Nichols, S. Green, J. Orris, D. Gaskill, K. Jensen, & K. Daub	No Action or Vote taken.

This statement was made by: Mayor Zack Tyndall, presiding officer

List members who have received open meetings training (at least one member must be in attendance during closed session): Mayor Zack Tyndall, Councilmember Jack Orris, Town Administrator Mary Bohlen, Human Resources Director Kelsey Jensen, Town Attorney David Gaskill, Associate Town Administrator Kate Daub, and Planning Commission Chair Matt Stoehr.

Data Centers & Town of Berlin

Jack Orris

Councilmember, Town of Berlin · ESAM Legislative Committee member

October 13, 2026

Two-Part Discussion • From Pause to Possible Rules

PART 1 • MORATORIUM DISCUSSION

What information Berlin may need before setting long-term rules: power, cost, water, land use, safety, transparency, and process.

PART 2 • ORDINANCE DEVELOPMENT

How municipalities can prepare for proposals: definitions, thresholds, utility facts, applicant-funded review, legal boundaries, and decommissioning.

Disclaimers

General and illustrative presentation. This material proposes a moratorium for review and presentation is illustrative in nature.

Not an endorsement, and not an objection. Nothing here should be cited as evidence of an official statement for or opposed to a data center within town limits by the Mayor & Council, individual elected officials or town staff.

The author's views alone. The findings, conclusions, and opinions in this presentation are the author's own. They do not reflect the position of the Town of Berlin or Town of Ridgley, the author(s), the Eastern Shore Association of Municipalities, or the Maryland Municipal League.

VERIFY BEFORE YOU RELY ON ANY OF IT

This is a planning summary. It is not an engineering study and it is not legal advice. Confirm every figure, citation, and statutory reference against the primary source, and obtain advice from your own municipality's attorney before acting on anything in this presentation.

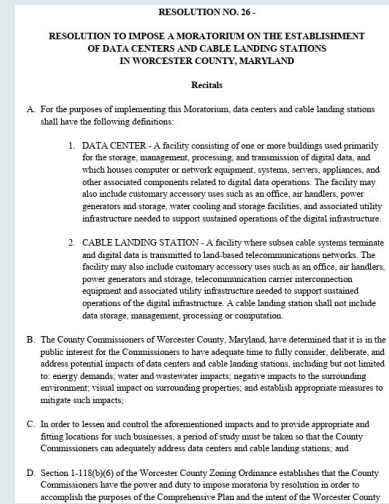
PART 1

Moratorium Discussion

A temporary pause to understand the infrastructure, land-use, and public-policy questions before setting long-term rules.

The goal is information + a clear process through preparation—
not a predetermined outcome.

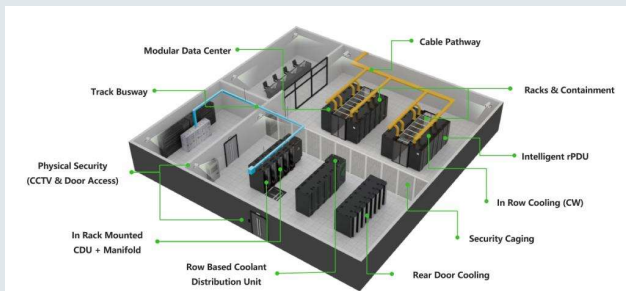
October 2026



County Resolution text

1 • WHY THIS MATTERS

A data center is more than a building.



Illustrative view of a center layout; Evstudio.com

The local questions include

- How much electricity would the project require?
- Can existing infrastructure(s) serve that load and facility reliably?
- What new substations, lines, or equipment could be needed?
- *What are the effects on water, noise, land use, and emergency response?*

Key idea

The right planning question is not simply whether a project is attractive. It is whether the Town has enough information and appropriate standards to evaluate it consistently.

Source: Data Center News, "Data Centers And The Power Grid" (Jan. 15, 2026); Urban Institute (Sept. 11, 2026).

There are potential benefits and potential impacts.

Potential *benefits* to examine

- New digital infrastructure
- Jobs and contracting opportunities
- Construction activity and investment
- Potential tax or other local revenue

Potential *impacts* to examine

- Noise, generators, and emissions
- Land-use, traffic, and emergency-response needs
- Electricity demand and grid upgrades
- Water and cooling requirements

The magnitude of each item depends on the specific project.

This slide intentionally presents both sides without assigning a value judgment. Sources: Urban Institute; Data Center News.

3 • WHAT A MORATORIUM WOULD DO

A pause can create time for a defined planning process.



Important: a moratorium should have a defined scope, duration, work plan, public process, and end point.

***Note: Town Strategic plan lists applicable attributes in SWOT analysis**

https://media.berlinmd.gov/app/uploads/2025/02/21105812/Berlin-Strategic-Plan_Report_FY24.pdf

Example: West Chicago, Illinois adopted a 180-day temporary moratorium in 2026 while studying data centers and possible zoning updates.

Six practical questions for a public checklist.

POWER

Load, interconnection, reliability

COST

Who pays for upgrades?

WATER

Cooling methods and demand

LAND USE

Where, setbacks, screening, noise

SAFETY

Fire, fuel, generators, access

TRANSPARENCY

How is information shared to the public?

Discussion topics drawn from municipal planning examples and data-center infrastructure guidance; they are not proposed Berlin regulations.

5 • WHAT COULD THE RULES ADDRESS?

Possible standards —

DEFINE

What counts as a data center? What size triggers additional review? Local Demand/applications?

DISCLOSE

Load, water, generators, site plans, expected operations

REVIEW

Utility, engineering, planning and public review

CONDITION

Setbacks, noise, water, safety, cost responsibilities

MONITOR

Reporting, enforcement and periodic review

A framework can make decisions more consistent and easier to understand.

Illustrative framework only. Any local ordinance would require legal, planning, utility and technical review, as well as incorporation of existing State regulatory standards and review.

INFORMATION

Do we have enough project and infrastructure information?

RULES

Do our existing rules address this type of development?

PROCESS

Would a temporary, defined review give the public and Town staff time to prepare?

Prepared for public discussion. This presentation does not recommend a particular final outcome.

SOURCES & VISUAL NOTES

References for the discussion draft

Primary source provided for this presentation

Data Center News — “Data Centers And The Power Grid” (Jan. 15, 2026)
<https://datacenternews.org/data-centers-and-the-power-grid/>

Additional context

Urban Institute — “25 Questions for States and Cities to Ask During a Moratorium...” (Sept. 11, 2026)
U.S. Department of Energy / ENERGY STAR — data-center cooling and efficiency resources
Wikimedia Commons — electrical-substation reference material

The deck uses original illustrative graphics rather than photographs of a proposed Berlin project.

Ordinance Development

A practical municipal framework: definitions, infrastructure facts, legal boundaries, applicant funding, decommissioning, and shared drafting resources.

EASTERN SHORE ASSOCIATION OF MUNICIPALITIES · SEPTEMBER 2026

Data Centers on the Eastern Shore

What each type needs, what it delivers, and what towns actually control

Brad Sears

Commissioner, Town of Ridgely · Chair, ESAM Legislative Committee

2 Power decides everything else

10–15 MW

Commonly cited capacity of a rural distribution feeder

~1 MW

Available at one Mid-Shore business park

Several years

For a new substation and new transmission

The realistic conversation on this Shore:

Under 2 MW

Edge or enterprise

Looks like an office or a warehouse — and will walk in as one if your code lets it.

2 to 25 MW

Single tenant or small colocation

If a proposal comes to one of your towns, this is almost certainly the one.

Above that

Needs 40+ acres and transmission

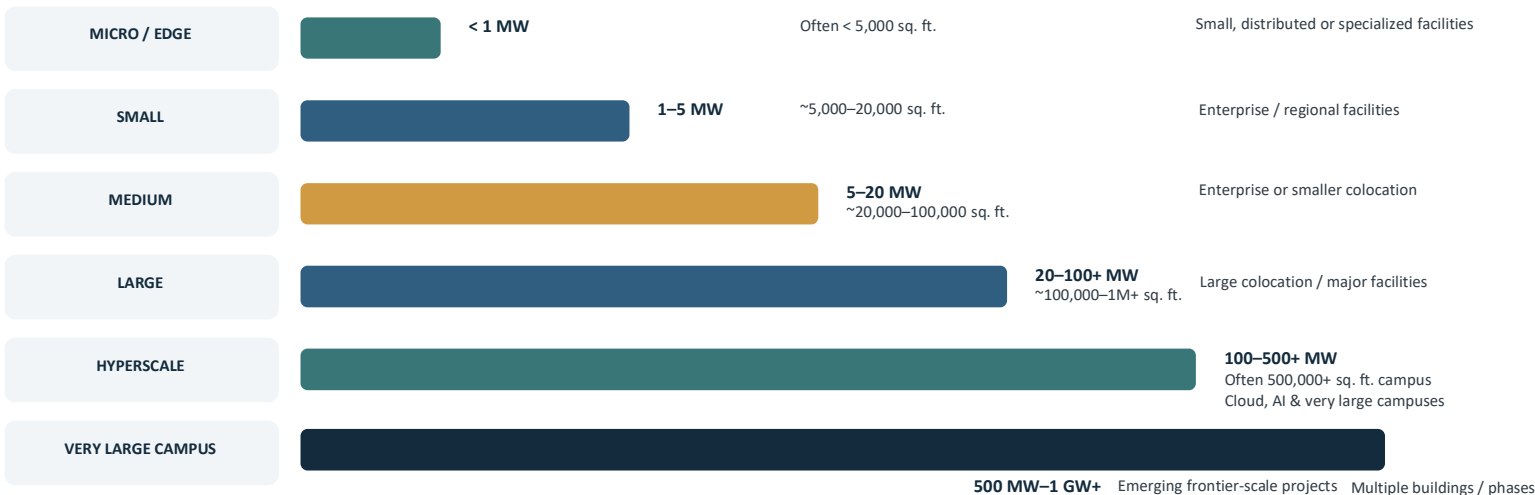
Few parks here have both. Arrives as an annexation request or a county project.

Only the serving utility can confirm what is available at a specific site.

2-b • SCALE MATTERS

Data centers range from a small room to a multi-building campus.

There is no single official size standard. For planning, power demand (MW) and physical footprint are both useful measures.



For local regulation, thresholds can be based on square footage, electrical load, campus acreage, or a combination.

Illustrative ranges, not official industry definitions. Sources: U.S. DOE; state/local planning references; Data Center News (Sept. 2026).

3 A county pause is not your shield

Six Shore jurisdictions have acted. No county measure reaches inside a town.

JURISDICTION	ACTION	DURATION
Queen Anne's County	Moratorium on data center applications · June 2026	12 months
Caroline County	Resolution 2026-012 · unincorporated areas only · July 2026	12 months
Worcester County	Resolution 26-18 · adds cable landing stations · July 2026	12 months
Town of Ridgely	Resolution 2026-03 · recommendation due April 2027 · Aug 2026	12 months
Town of Federalsburg	Adopted with stated intent to consider a ban · Aug 2026	36 months
Wicomico County	Moratorium in unincorporated areas · Aug 2026	12 months

HOW LONG IS DEFENSIBLE?

Twelve months is the Shore norm; Federalsburg's thirty-six is the outlier.

Tahoe-Sierra Preservation Council v. Tahoe Regional Planning Agency, 535 U.S. 302 (2002), upheld a 32-month moratorium 6–3 — but held only that it was not a *per se* taking, and set no duration rule in either direction. It allowed that a pause beyond one year "may well" merit special skepticism, then declined to make that a rule. What carried those 32 months was a trial-court finding that the agency acted diligently and in good faith. Length is defended by the record of work, not by a neighbor's precedent.

Caroline's pause excluded its own municipalities, and the live proposal in that county sits inside Federalsburg's town limits. A county pause next door may raise the pressure on your town, not relieve it.

4 The water problem is fire flow, not cooling

5,000–10,000 GPD

What closed-loop cooling actually uses at 50 MW

720,000 gallons

A single fire event at 3,000 gpm for four hours

16,100 GPD

Ridgely's spare water capacity, against a 200,000 GPD system

That floor does not scale down much. A smaller building does not buy a proportionally smaller fire flow requirement.

The remedy is not a municipal capital project. Where the system cannot deliver the rate, the answer is a developer-funded on-site tank and pump. Write it in as a condition.

Action: commission a hydrant flow test and a hydraulic model at your business park. It also serves insurance rating and capital planning.

5 Jobs: Be careful which number you repeat

WHAT YOU CAN DEFEND

8 to 18

permanent jobs at 50 MW, from field benchmarks of 0.15–0.35 full-time positions per megawatt

Wages are the strong part: network support \$76,220 · systems administration \$99,130 · all occupations \$50,980

WHAT'S IN THE PRESS

Brookings brief: data processing +56%, telecom +43% — implying 100 to 200 jobs in a typical county.

The same two authors' working paper, dated three days earlier:

- Data processing +26%, and it does not survive a statistical correction
- Telecom employment near zero
- 27–68% of employment cells suppressed by the Bureau of Labor Statistics

A developer's consultant has read the working paper. So has your loudest opponent.

Ask applicants for full-time-equivalent headcount at year five — not construction plus operations combined.

6 Decommissioning: The building outlasts the tenant

3 to 7 years equipment turnover. These facilities are typically held in single-purpose entities that own one asset and nothing else.

"A promise to remove the building is worth whatever that entity is worth on the day you need it. A bond is worth its face amount."

REQUIRE

- Surety bond, letter of credit, or cash escrow
- Jurisdiction named as obligee, expressly
- Indexed third-party estimate, re-run at the applicant's expense at least every five years
- Posted before the building permit; binds successors

REFUSE

- A parent-company guarantee
- An insurance policy
- A lien on the property

All three fail exactly when the owner fails.

The precedent is already in your county code: utility-scale solar decommissioning. Borrow the structure.

7 Where you are not in charge

Two legal boundaries that surprise municipal officials.

PREEMPTION

2 MW generally the certificate threshold — that is low

If a developer proposes generation to serve the load rather than back it up, that generation needs a State certificate, your zoning may be preempted outright.

Washington County v. Perennial Solar (2019), reaffirmed by the Supreme Court of Maryland in 2022.

- Carved out: emergency backup generation
- Not carved out: generation built to serve load

What you keep is a right to participate and "due consideration" of your plan. Advisory weight. Not a veto.

ANNEXATION

Your point of maximum leverage — and it comes with two traps.

The five-year rule, § 4-416. You generally cannot allow a use substantially different from what county zoning permitted, without the county's express approval. The county sits inside your annexation whether you want it there or not — and a code home rule county can repeal its assent unless rights have vested.

Contract zoning is prohibited. You can negotiate utility timetables, cost allocation, and environmental conditions. You cannot promise a zoning classification as a precondition of annexation.

Maryland authorizes development agreements, but a town must have adopted enabling procedures first. Many small towns never did.

8 Four things to do before anyone knocks

Cheap to adopt now. Nearly impossible once an applicant is across the table.

1 Define the use Size thresholds plus aggregation language — and name the accessory infrastructure: substations, backup generation, battery storage, cable landing stations. A pending Worcester County zoning appeal turns on exactly that gap.

2 Get utility facts in writing Feeder headroom, a hydrant flow test, and your actual water appropriation and discharge permit limits. Design capacity is probably not your binding number.

3 Adopt an applicant-funded escrow Before an application — or you review a nine-figure project on a fee schedule written for a strip mall. Keep yourself as the consultant's client.

4 Write the decommissioning security Instrument, amount, escalation, trigger, successors. Borrow the structure from utility-scale solar.

And one to obtain rather than write. The statewide Data Center Impact Analysis was due September 1 under Chapter 10 of the 2025 Special Session. Delivery is unconfirmed — ask the Department of Legislative Services, and do not calendar your drafting around a report you have not seen.

Authority is never shared. The expensive part can be.

Every one of us adopts and enforces our own ordinance, and no working group changes that. What can be shared is the drafting, the legal research, the consultants, and the data.

One definition

and one threshold

One formula

for decommissioning

One consultant

shared, for acoustics

One protocol

for cross-boundary notice

"The aquifer does not respect corporate limits, and neither does developer arbitrage. If our thresholds differ, we have simply told a developer which town to call first."

Thank you

MOTION OF THE MAYOR AND COUNCIL 2026-57

A motion of the Mayor and Council of the Town of Berlin, the legal name of which is Mayor and Council of Berlin (the “Town”), AUTHORIZING LOAN FUNDING TO BE PROVIDED BY THE MARYLAND WATER INFRASTRUCTURE FINANCING ADMINISTRATION (“MWIFA”) FOR A PROJECT GENERALLY REFERRED TO AS BERLIN LEAD SERVICE LINE REPLACEMENT PHASE 1A SEPARATE FROM MWIFA LOAN FUNDING FOR ANY OTHER PROJECTS.

The Maryland Department of the Environment had previously preliminarily approved the provision of loan funding through MWIFA for the following three projects of the Town that were generally referred to as:

Task #1 – Berlin Lead Service Line Inventory (“Task #1”)

Task #2 – Berlin Lead Service Line Replacement – Phase 1 (“Task #2”)

Task #3 – Berlin RT 346 Water Supply and Treatment Project (“Task #3”).

Pursuant to Motion 2025-18, approved by the Council of the Town on March 10, 2025 and approved by the Mayor of the Town on March 10, 2025, the Town determined to close on MWIFA loan funding for the projects identified above as Task #1 and Task #2 on the same date and to close on MWIFA loan funding for the project identified as Task #3 on a different date.

The project that had been referred to as Task #2 is now generally referred to as Berlin Lead Service Line Replacement Phase 1A or by a similar name (“Phase 1A”), and MWIFA and the Maryland Board of Public Works have approved closing on loan funding for Phase 1A.

Accordingly, the Mayor and Council hereby authorize the Town to close on MWIFA loan funding for Phase 1A separate from MWIFA loan funding for any other projects. The provisions of this Motion supersede the inconsistent provisions of Motion 2025-18.

[CONTINUED ON FOLLOWING PAGE]

APPROVED this _____ day of _____, 2026, by the Council of the Town of Berlin, Maryland, by the vote indicated below:

Name	Counted toward quorum				
	Aye	No	Abstain	Recused	Absent
, VP					
<i>Voting Tally</i>					

_____, Vice President of the Council

APPROVED this _____ day of _____, 2026, by the Mayor of the Town of Berlin.

Zack Tyndall, Mayor

ATTEST:

Kate Daub, Acting Town Administrator

RESOLUTION 2026-09

A RESOLUTION OF THE COUNCIL OF MAYOR AND COUNCIL OF BERLIN (THE “TOWN”) MAKING A DECLARATION OF OFFICIAL INTENT REGARDING THE TOWN’S REASONABLE EXPECTATION TO REIMBURSE FROM PROCEEDS OF A FUTURE BORROWING EXPENDITURES PAID PRIOR TO CLOSING ON THE BORROWING IN CONNECTION WITH A PROJECT GENERALLY REFERRED TO AS “BERLIN LEAD SERVICE LINE REPLACEMENT PHASE 1A,” AND GENERALLY RELATING THERETO.

RECITALS

WHEREAS, Mayor and Council of Berlin, a municipal corporation of the State of Maryland (the “Town”), is in the process of undertaking a project generally referred to as “Berlin Lead Service Line Replacement Phase 1A” or by similar names (“Phase 1A”) that was previously referred to as “Task #2 - Berlin Lead Service Line Replacement – Phase 1” (“Task #2”); and

WHEREAS, the Maryland Water Infrastructure Financing Administration (“MWIFA”) had previously preliminarily approved providing the Town with (i) base loan funding in an original aggregate principal amount of up to \$698,763 for Task #2, and (ii) principal forgiveness loan funding in an original aggregate principal amount of up to \$969,890 for Task #2; and

WHEREAS, MWIFA had also previously approved providing the Town with (i) base loan funding in an original principal amount of up to \$86,020 for a project generally referred to as “Task #1 – Berlin Lead Service Line Inventory” (“Task #1”), and (ii) principal forgiveness loan funding in an original principal amount of up to \$86,020 for Task #1; and

WHEREAS, the Town previously had expected to issue to the Administration (i) a single general obligation bond evidencing the combined base loan funding for Task #1 and Task #2 in the maximum original aggregate principal amount of \$784,783, the interest on which was expected to be excludable from gross income for purposes of Section 103 of the Internal Revenue Code of 1986, as amended, and the related U.S. Treasury Regulations (collectively, the “Code”), and (ii) a single general obligation bond evidencing the combined principal forgiveness loan funding for Task #1 and Task #2 in the maximum original aggregate principal amount of \$1,055,910, the interest on which, if any, would be includable in gross income for purposes of Section 103 of the Code; and

WHEREAS, pursuant to Resolution 2025-02, adopted by the Council of the Town (the “Council”) on March 10, 2025, approved by the Mayor of the Town on March 10, 2025, and effective on March 10, 2025 (the “Original DOOI”), the Town expressed its reasonable expectation to pay costs of Task #1 and Task #2 prior to closing on the MWIFA loans therefor and to use proceeds of a tax-exempt bond to be issued in the maximum original principal amount of \$784,783 in order to reimburse all or a portion of such previously paid project costs; and

WHEREAS, the Original DOOI does not differentiate between the amounts of such tax-exempt borrowing allocated to Task #1 and Task #2; and

WHEREAS, Task #2 has been renamed as described in the first WHEREAS clause of these Recitals, the cost for Phase 1A has been increased from \$1,668,653 to \$2,286,853, and MWIFA and the Maryland Board of Public Works have approved making the Town two loans solely for purposes of Phase 1A as follows: (i) base loan funding of up to \$1,007,863 in original principal amount, and (ii) principal forgiveness loan funding of up to \$1,278,990 in original principal amount; and

WHEREAS, the Town anticipates borrowing money for costs of Phase 1A, such borrowing to be evidenced by one or more series of general obligation bonds or other evidences of indebtedness to be issued by the Town to MWIFA (collectively, or individually by series, the “Bonds” or, individually, a “Bond”); and

WHEREAS, the base loan funding will be evidenced by a Bond issued by the Town to MWIFA in the maximum original principal amount of \$1,007,863, the interest on which will be excludable from gross income for purposes of Section 103 of the Code, and the principal forgiveness loan funding will be evidenced by a Bond issued by the Town to MWIFA in the maximum original principal amount of \$1,278,990 that is subject to principal forgiveness and, therefore, will not be issued on a tax-exempt basis for purposes of the Code; and

WHEREAS, the Town reasonably expects to spend non-borrowed Town funds on costs of Phase 1A prior to issuance of the Bonds to MWIFA, and to reimburse the Town from proceeds of the Bonds for all or a portion of such moneys expended; and

WHEREAS, Section 1.150-2 of the U.S. Treasury Regulations (the “Reimbursement Regulations”) provides that a local government funding “original expenditures” intended to be reimbursed from the proceeds of tax-exempt “obligations” must make a declaration of “official intent” in order to qualify such original expenditures for reimbursement from a “reimbursement bond,” all within the meaning of the Reimbursement Regulations; and

WHEREAS, the Town is an “issuer” for purposes of the Reimbursement Regulations and the Council of the Town wishes to adopt this Resolution for the purpose of evidencing the clear and official intent of the Town to reimburse from tax-exempt reimbursement bond proceeds original expenditures made in connection with Phase 1A.

SECTION 1. NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF MAYOR AND COUNCIL OF BERLIN that:

(a) The Recitals to this Resolution are deemed a substantive part of this Resolution and are incorporated by reference herein, and capitalized terms defined in the Recitals to this Resolution and not otherwise defined herein will have the meanings given to such terms in the Recitals hereto.

(b) “Berlin Lead Service Line Replacement Phase 1A” (or a similar name) is the name by which Phase 1A is generally identified in applicable materials of the Town. It is hereby expressly recognized that expenditures for Phase 1A and/or issuance of any Bonds may occur in the current fiscal year or a subsequent fiscal year. References in this Resolution to Phase 1A shall

be deemed to (i) be to Phase 1A as it may be referred to by similar but not the exact same names in applicable Town materials, including any Town budget, and (ii) include any changes in the scope of activities of Phase 1A and/or the name of Phase 1A made by the Town in accordance with applicable law, including (without limitation) in future fiscal years. References in this Resolution to costs of Phase 1A shall be deemed to be to expenditures that constitute capital expenditures and, to the extent applicable, (i) costs of issuance of any borrowing relating to Phase 1A and (ii) capitalized interest.

(c) References in this Section to the tax-exempt Bonds to be issued by the Town for purposes of Phase 1A shall be construed to mean only the portion of such financing issued or incurred by the Town for purposes of Phase 1A in the event any particular financing is sized to cover one or more other projects in addition to Phase 1A.

SECTION 2. BE IT FURTHER RESOLVED that in accordance with the Reimbursement Regulations, the Town hereby makes this declaration of its reasonable expectation to expend non-borrowed funds on costs of Phase 1A prior to the issuance of the Bonds and to use proceeds of the tax-exempt Bonds, which tax-exempt Bonds and/or interim financing will qualify as a “reimbursement bond” for purposes of the Reimbursement Regulations, to reimburse all or a portion of such original expenditures made with respect to Phase 1A. This Resolution is intended to be a declaration of official intent within the meaning of the Reimbursement Regulations.

SECTION 3. BE IT FURTHER RESOLVED that the maximum original aggregate principal amount of the tax-exempt Bonds to be issued to finance or reimburse costs of Phase 1A is \$1,007,863.00.

SECTION 4. BE IT FURTHER RESOLVED that the provisions of this Resolution shall be liberally construed in order to effectuate the purposes of this Resolution.

SECTION 5. BE IT FURTHER RESOLVED that this Resolution may be executed (i) in counterparts and/or (ii) to the extent not prohibited by applicable law, by electronic, stamped or facsimile signature, and all executed counterparts of this Resolution shall be treated as one and the same resolution.

SECTION 6. BE IT FURTHER RESOLVED that this Resolution shall become effective upon adoption and approval.

[CONTINUED ON FOLLOWING PAGE]

ADOPTED this _____ day of _____, 2026 by the Council of the Town of Berlin, Maryland, by the following vote:

Name	Counted toward quorum				
	Aye	No	Abstain	Recused	Absent
, VP					
<i>Voting Tally</i>					

_____, Vice President of the Council

APPROVED this _____ day of _____, 2026, by the Mayor of the Town of Berlin.

Zack Tyndall, Mayor

ATTEST:

Kate Daub, Acting Town Administrator

#245805;50016.029

ORDINANCE 2026-08

AN ORDINANCE OF THE COUNCIL (THE “COUNCIL”) OF MAYOR AND COUNCIL OF BERLIN (THE “TOWN”) AUTHORIZING AND EMPOWERING THE TOWN TO ISSUE AND SELL FROM TIME TO TIME, UPON ITS FULL FAITH AND CREDIT, ONE OR MORE SERIES OF (1) GENERAL OBLIGATION BONDS IN AN ORIGINAL AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$2,286,853, AND (2) GENERAL OBLIGATION REFUNDING BONDS, PROVIDED THAT THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF ANY SERIES OF REFUNDING BONDS SHALL NOT EXCEED ONE HUNDRED THIRTY PERCENT (130%) OF THE AGGREGATE PRINCIPAL AMOUNT OF THE BONDS REFUNDED THEREFROM, FOR THE PUBLIC PURPOSE OF FINANCING, REIMBURSING OR REFINANCING COSTS OF A PROJECT THAT THE TOWN GENERALLY REFERS TO AS “BERLIN LEAD SERVICE LINE REPLACEMENT PHASE 1A,” TOGETHER WITH RELATED COSTS AS PROVIDED HEREIN; DETERMINING THAT ANY SUCH SERIES OF BONDS BE SOLD TO THE MARYLAND WATER INFRASTRUCTURE FINANCING ADMINISTRATION (THE “ADMINISTRATION”) BY PRIVATE SALE, WITHOUT PUBLIC BIDDING; PROVIDING THAT THE COUNCIL BY RESOLUTION SHALL DETERMINE OR PROVIDE FOR CERTAIN DETAILS OF ANY SUCH SERIES OF BONDS OR REFUNDING BONDS (EACH, A “SERIES OF OBLIGATIONS” OR “OBLIGATIONS”), INCLUDING WITH RESPECT TO ANY DEBT SERVICE RESERVE ACCOUNT REQUIRED BY THE ADMINISTRATION FOR ANY REFUNDING BONDS SOLD TO THE ADMINISTRATION; PROVIDING THAT ANY SUCH SERIES OF REFUNDING BONDS WILL BE SOLD BY PRIVATE SALE UNLESS THE COUNCIL BY RESOLUTION DETERMINES OTHERWISE; WITH RESPECT TO ANY OBLIGATIONS SOLD TO THE ADMINISTRATION, AUTHORIZING THE APPROVAL BY RESOLUTION OF ONE OR MORE LOAN AGREEMENTS WITH THE ADMINISTRATION AND, WITH RESPECT TO ANY SUCH LOAN AGREEMENT, ACKNOWLEDGING THE ADMINISTRATION’S RIGHTS THEREUNDER; WITH RESPECT TO ANY OBLIGATIONS SOLD TO THE ADMINISTRATION, MAKING A PLEDGE OF CERTAIN REVENUES RECEIVABLE FROM THE STATE OF MARYLAND, AND ACKNOWLEDGING CERTAIN PAYMENT RESPONSIBILITIES OF THE TOWN; PLEDGING THE TOWN’S FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER TO PAYMENT OF ANY ISSUED OBLIGATIONS AND PROVIDING FOR THE IMPOSITION OF AD VALOREM TAXES UPON ALL REAL AND PERSONAL PROPERTY WITHIN THE TOWN SUBJECT TO ASSESSMENT FOR UNLIMITED MUNICIPAL TAXATION TO PAY SUCH ISSUED OBLIGATIONS; IDENTIFYING OR PROVIDING FOR THE DETERMINATION OF THE SOURCES FROM WHICH DEBT SERVICE ON ANY SERIES OF ISSUED OBLIGATIONS WILL BE PAYABLE IN THE FIRST INSTANCE; AUTHORIZING THE COUNCIL BY RESOLUTION TO PROVIDE FOR POST-CLOSING MODIFICATIONS AFFECTING ANY SERIES OF THE OBLIGATIONS; PROVIDING THAT CERTAIN ACTIONS MAY BE TAKEN OR PROVIDED FOR BY RESOLUTION IN CONNECTION WITH THE REISSUANCE OF ANY OF THE OBLIGATIONS; PROVIDING THAT ANY OBLIGATIONS MAY BE CONSOLIDATED WITH OTHER OBLIGATIONS OF THE

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TOWN; AUTHORIZING TOWN PERSONNEL TO TAKE CERTAIN ACTIONS IN CONNECTION WITH THE OBLIGATIONS, INCLUDING AS MAY BE DELEGATED BY THE COUNCIL BY RESOLUTION; PROVIDING THAT THE PROVISIONS OF THIS ORDINANCE SHALL BE LIBERALLY CONSTRUED; AND OTHERWISE GENERALLY RELATING TO THE SALE, ISSUANCE, DELIVERY AND PAYMENT OF AND FOR ANY SUCH SERIES OF OBLIGATIONS.

RECITALS

WHEREAS, Mayor and Council of Berlin, a municipal corporation of the State of Maryland and a municipality within the meaning of the Enabling Act and the Refunding Act identified below (the “Town”), is authorized and empowered by Sections 19-301 to 19-309, inclusive, of the Local Government Article of the Annotated Code of Maryland (the “Enabling Act”), and Sections C7-19, C7-19.1 and C7-21 of the Charter of the Town of Berlin (the “Charter”), to borrow money for any proper public purpose and to evidence such borrowing by the issuance and sale of its general obligation bonds; and

WHEREAS, the Town has determined to undertake a project that it generally refers to as “Berlin Lead Service Line Replacement Phase 1A” or by similar names (the “Project”); and

WHEREAS, the Project involves the replacement of existing water lines that contain lead, focusing primarily on William Street; and

WHEREAS, in connection with the Project the Town may acquire or pay for, as applicable, unimproved or improved land; other property interests; site and utility improvements (including, without limitation, paving, repaving, curb, water, sewer, gutter, stormwater, sidewalk and landscaping replacements/improvements); testing, study, survey, architectural, engineering, planning, design, document development, bidding, demolition, razing, removal, acquisition, construction, reconstruction, improvement, installation, modification, renovation, reconstruction, rehabilitation, equipping, inspection, construction management, financial, legal and administrative expenses; contingencies; costs of activities related to any of the foregoing; and costs of any borrowing for the Project (collectively, “Costs of the Project” or “Costs”); and

WHEREAS, the Town has determined to borrow money for the public purpose of financing, reimbursing or refinancing all or a portion of the costs of one or more components of the Costs of the Project by issuing one or more series of its general obligation bonds; and

WHEREAS, the federal Safe Drinking Water Act, as amended (the “Safe Drinking Water Act”), authorizes the U.S. Environmental Protection Agency (the “EPA”) to award grants to qualifying states to establish and capitalize drinking water treatment revolving loan funds (“SRFs”) for the purpose of providing loans and certain other forms of financial assistance to finance, among other things, the construction and improvement of publicly-owned and privately-owned water supply systems; and

WHEREAS, as contemplated by the Safe Drinking Water Act, the General Assembly of Maryland has amended the Maryland Water Infrastructure Financing Administration Act

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(previously known as the Maryland Water Quality Financing Administration Act), codified at Sections 9-1601 through 9-1622, inclusive, of the Environment Article of the Annotated Code of Maryland (the “MWIFA Act”), establishing an SRF designated the Maryland Drinking Water Revolving Loan Fund (the “Fund”) to be maintained and administered by the Maryland Water Infrastructure Financing Administration (previously known as the Maryland Water Quality Financing Administration, and referred to in this Ordinance as the “Administration,” including with respect to any successors thereto); and

WHEREAS, the MWIFA Act authorizes the Administration, among other things, to make a loan from the Fund to a “local government” (as defined in the MWIFA Act) for the purpose of financing or refinancing all or a portion of the cost of a “water supply system” project (as defined in the MWIFA Act); and

WHEREAS, the Town is a “local government” within the meaning of the MWIFA Act, the Project is a “water supply system” project within the meaning of the MWIFA Act, and the Town has applied to the Administration for a loan or loans from the Fund for purposes of the Project; and

WHEREAS, the MWIFA Act authorizes a local government to issue one or more bonds, notes or other evidences of obligation (each, a “loan obligation” as defined in the MWIFA Act) to evidence its indebtedness under a loan agreement with respect to a loan from the Administration, to sell any such bond, note or other evidence of obligation to the Administration at private sale, without public bidding, and to establish a dedicated source of revenues for repayment of such loan; and

WHEREAS, pursuant to the authority of the MWIFA Act, the Enabling Act, Sections C7-19, C7-19.1 and C7-21 of the Charter and any other applicable law, the Town has determined to borrow money from the Administration for the public purpose of financing, reimbursing or refinancing Costs of the Project or such components of Costs of the Project as the Administration shall approve; and

WHEREAS, in connection with the issuance and sale of any series of the general obligation bonds contemplated hereby, and pursuant to the MWIFA Act, the Town will enter into one or more loan agreements with the Administration; and

WHEREAS, the Administration and the Maryland Board of Public Works have approved the Administration making two loans to the Town for purposes of financing, reimbursing or refinancing Costs of the Project, one such loan to be in a maximum original principal amount not to exceed \$1,007,863 and the other such loan to be in a maximum original principal amount not to exceed \$1,278,990 (for an original aggregate loan principal amount not to exceed \$2,286,853), with one loan being a “base loan” and the other loan being a “principal forgiveness loan” within the meanings of the Administration’s loan programs; and

WHEREAS, as of the date of introduction of this Ordinance, the Town and the Administration anticipate that (i) the base loan will be evidenced by the issuance by the Town to the Administration of a series of bonds in the form of a single general obligation installment bond, the interest on which will be excludable from gross income for federal income tax purposes, and (ii) the principal

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forgiveness loan will be evidenced by the issuance by the Town to the Administration of a series of bonds in the form of a single general obligation bond the payment of which is subject to forgiveness as described herein and the interest on which (if any) is includable in gross income for federal income tax purposes; provided that, the final structure of any such financing (including, without limitation, whether one or more separate series of the bonds will be issued for the Project and the final original principal amount of any series of bonds) and the tax status of interest payable on any such series of bonds issued by the Town to the Administration shall be determined by the Council of the Town (the “Council”) by resolution as provided for in the Enabling Act and this Ordinance; and

WHEREAS, subsequent to the issuance to the Administration of any series of bonds provided for herein, the Town may desire to currently refund or advance refund all or a portion of such series of bonds pursuant to the authority of Section 19-207 of the Local Government Article of the Annotated Code of Maryland (the “Refunding Act”) and any other applicable law; and

WHEREAS, the Town has determined to pledge its full faith and credit and unlimited taxing power to the prompt payment of debt service on any issued series of bonds or refunding bonds authorized hereby; and

WHEREAS, the Town expects to pay the principal of, and interest on, as applicable, any issued bonds or refunding bonds in the first instance from revenues received by the Town in connection with the operation of the water supply system serving the Town and surrounding areas (referred to herein as the “water supply system”), including fees for use of or connection to such system, all to the extent lawfully available for such purpose or, with respect to the bonds and any refunding bonds sold to the Administration, any other dedicated source of revenues agreed to by the Town and the Administration and provided for by the Council by resolution; and

WHEREAS, in connection with the issuance of any series of refunding bonds authorized by this Ordinance that are issued to the Administration, the Administration may require the Town to establish, fund and maintain for a period of time acceptable to the Administration from non-debt sources a debt service reserve account in a manner that satisfies the Administration’s debt service coverage requirements; and

WHEREAS, the Town, as authorized by the MWIFA Act, may pledge any moneys that the Town is entitled to receive from the State of Maryland, including the Town’s share of the State income tax, to secure its obligations under any loan agreement with the Administration provided for herein; and

WHEREAS, pursuant to the authority of the Enabling Act, the Refunding Act and the Charter, as applicable, the Town shall issue any series of general obligation bonds or refunding bonds authorized hereby in accordance with the terms and conditions provided for in a resolution or resolutions to be adopted by the Council.

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SECTION 1. NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF MAYOR AND COUNCIL OF BERLIN that:

(a) The Recitals to this Ordinance are deemed a substantive part of this Ordinance and incorporated by reference herein. Capitalized terms used in this Ordinance and not otherwise defined in the Sections of this Ordinance shall have the meanings given to such terms in the Recitals.

(b) Subject to the provisions of subsection (i) of this Section 1, references in this Ordinance to any official by title shall be deemed to refer (i) to any official authorized under the Charter, the code of ordinances of the Town (the “Town Code”) or other applicable law or authority to act in such titled official’s stead in the event of a vacancy in such position or during the absence, disability or unavailability of such titled official, (ii) to any person who has been elected, appointed or designated to fill such position in an acting or interim capacity under the Charter, the Town Code or other applicable law or authority, (iii) to any person who serves in a “deputy,” “associate” or “assistant” capacity as such an official, provided that the applicable responsibilities, rights or duties referred to herein have been delegated to such deputy, associate or assistant in accordance with the Charter, the Town Code or other applicable law or authority, and/or (iv) to the extent an identified official commonly uses another title not provided for in the Charter or the Town Code, the official, however known, who is charged under the Charter, the Town Code or other applicable law or authority (including this Ordinance) with the applicable responsibilities, rights or duties referred to herein. References in this Ordinance to “officials” of the Town shall be construed to also refer to employees of the Town.

(c) References in this Ordinance to the “principal amount” of any of the Bonds, the Refunding Bonds or the Obligations (each as defined herein) shall be construed to mean the par amount of such Bonds, Refunding Bonds or Obligations, as applicable.

(d) References in this Ordinance to the “Project,” “Costs of the Project” and “Costs” are intended to include any modifications or amendments to components of the Project as provided for in Town budgetary materials or made by other appropriate actions and that are acceptable to the Administration to the extent such modifications or amendments impact Obligations issued to the Administration.

(e) References in this Ordinance to any statutory or legislative authority shall be deemed to refer to such statutory or legislative authority as replaced, supplemented or amended, to the extent applicable.

(f) To the extent that applicable laws, orders, regulations or other authority allow for signatures of Town officials to be made by digital, facsimile, electronic or other means, the provisions of such applicable laws, orders, regulations or other authority allowing signatures to be made in a manner other than manually shall apply to any signatures of Town officials provided for in or contemplated by this Ordinance, including on this Ordinance. In addition, this Ordinance may be executed in counterparts.

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(g) As of the date of introduction of this Ordinance, the Administration refers to the Project as “Berlin Lead Service Line Replacement Phase 1A.” The Town and the Administration may use different names to identify the Project.

(h) References in this Ordinance to interest on any series of the Obligations being excludable from or includable in gross income for federal income tax purposes shall be construed as referring to the provisions of Section 103 of the Internal Revenue Code of 1986, as amended, and related U.S. Treasury Regulations.

(i) It is the intention of the Council that if the position of the Town Administrator of the Town (the “Town Administrator”) is vacant or the incumbent Town Administrator is absent, disabled or unavailable at any time the corporate seal of the Town is to be impressed on or affixed to any of the Obligations or any related documents, agreements, instruments or certificates, that such impression or affixing of the Town seal shall be attested to by the following Town officials in the following order of priority: (A) first, by any incumbent Acting Town Administrator or Interim Town Administrator of the Town (in either such case, the “Acting Town Administrator”), (B) second, if there is no incumbent Acting Town Administrator or in the absence, disability or unavailability of any incumbent Acting Town Administrator, by any incumbent Associate Town Administrator of the Town (the “Associate Town Administrator”), and (C) third, if the position of Associate Town Administrator is vacant or in the absence, disability or unavailability of any incumbent Associate Town Administrator, by the Finance Director of the Town (the “Finance Director”); provided that, no such official may both execute any Obligation or related document, agreement, instrument or certificate on behalf of the Town and attest to the impression or affixing of the Town seal thereon; however, any such official may both execute and attest to the impression or affixing of the Town seal on any standard closing certificates.

SECTION 2. BE IT FURTHER ORDAINED AND ENACTED that pursuant to the authority of the Enabling Act, the MWIFA Act, Sections C7-19, C7-19.1 and C7-21 of the Charter and any other applicable law, the Town hereby determines to borrow money and incur indebtedness for the public purpose of financing, reimbursing or refinancing any one or more components of Costs of the Project in whole or in part, all to the extent permitted by the Administration. The total Costs of the Project not otherwise payable from other sources is not expected to exceed Two Million Two Hundred Eighty-Six Thousand Eight Hundred Fifty-Three Dollars (\$2,286,853).

SECTION 3. BE IT FURTHER ORDAINED AND ENACTED that:

(a) To evidence the borrowing and indebtedness authorized in Section 2 of this Ordinance, the Town, acting pursuant to the authority of the Enabling Act, the MWIFA Act, Sections C7-19, C7-19.1 and C7-21 of the Charter and any other applicable law, hereby determines to issue and sell from time to time, upon its full faith and credit, one or more series of its general obligation bonds in an original aggregate principal amount not to exceed Two Million Two Hundred Eighty-Six Thousand Eight Hundred Fifty-Three Dollars (\$2,286,853) (individually, a “series” of the Bonds and, collectively, the “Bonds”). Each such series may consist of one or more bonds and any bond may be issued in installment form and/or draw-down form. The proceeds of each series of any issued Bonds are hereby appropriated for the purposes outlined or provided for in this Ordinance.

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(b) As of the date of introduction of this Ordinance, based on communications between the Town and the Administration, the approval of the Maryland Board of Public Works, and preliminary approvals given by the Administration to date, it is anticipated that the Town will issue to the Administration one series of the Bonds consisting of a single general obligation installment bond the interest on which is excludable from gross income for federal income tax purposes in the maximum original principal amount not to exceed \$1,007,863 and a separate series of the Bonds consisting of a single general obligation bond the principal of which is subject to forgiveness and the interest on which (if any) is includable in gross income for federal income tax purposes in the maximum original principal amount not to exceed \$1,278,990. Notwithstanding such current expectation, and with the Administration's consent and any necessary additional approvals of the Maryland Board of Public Works, the Council may determine by resolution (i) to issue to the Administration more than two separate series of the Bonds in a maximum original aggregate principal amount not to exceed \$2,286,853 in order to finance, reimburse or refinance Costs of the Project, (ii) the structure of each such series of the Bonds, and (iii) the tax status of any interest payable on each such series of the Bonds.

SECTION 4. BE IT FURTHER ORDAINED AND ENACTED that pursuant to the authority of the Enabling Act, the MWIFA Act, Sections C7-19, C7-19.1 and C7-21 of the Charter and any other applicable law, the Town hereby determines to sell each series of the Bonds to the Administration by private sale, without public bidding, for cash, in a direct purchase transaction due, in part, to the ability to issue any series of the Bonds as draw-down obligations, the ability to negotiate certain terms with the Administration, the beneficial formulas by which the Administration establishes interest rates on bonds purchased by the Administration, the lower costs of issuance typically incurred with a private sale to the Administration as compared to a public sale at competitive bid or a negotiated underwriting and, to the extent agreed to by the Administration, the ability to structure one or more series of the Bonds as obligations that are subject to principal forgiveness.

SECTION 5. BE IT FURTHER ORDAINED AND ENACTED that the proceeds of each series of the Bonds shall be used and applied by the Town exclusively and solely for the public purposes described in Section 2 of this Ordinance, unless, with the approval of the Administration, a supplemental ordinance is enacted by the Council to provide for the use and application of such proceeds for some other proper public purpose authorized by the MWIFA Act, subject to the provisions of Section 12 of this Ordinance.

SECTION 6. BE IT FURTHER ORDAINED AND ENACTED that pursuant to the authority of the Enabling Act, Sections C7-19, C7-19.1 and C7-21 of the Charter, and any other applicable law, the Council, prior to the issuance, sale and delivery of any series of the Bonds, shall adopt a resolution or resolutions specifying, prescribing, determining or providing for the determination of, providing for, or approving or providing for the approval of, the types of matters, details, forms (including, without limitation, the form or substantially final form of the Bonds of such series), documents or procedures as may be required by the Enabling Act, the MWIFA Act, the Charter, other applicable law or this Ordinance or as the Council may deem appropriate for the authorization, sale, security, issuance, delivery, payment or prepayment of or for such series of the Bonds. A resolution shall or may set forth, determine or provide for the determination of, provide for, or approve or provide for the approval of, among other things, as applicable, the original aggregate

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principal amount of such series of the Bonds; the designation of such series of the Bonds; the denomination or denominations of such series of the Bonds; the maturity or maturities of such series of the Bonds; the principal installment or installments, or the method of determining the principal installment or installments, payable on such series of the Bonds; the rate or rates of interest, or the method of determining the rate or rates of interest, which may be fixed or variable (and which may include a rate of zero percent (0.0%)), payable on such series of the Bonds; provisions relating to the payment of any late fees or penalties with respect to such series of the Bonds; the components of the Costs of the Project on which proceeds of such series will be expended, if limited in any way; provisions for the further appropriation and disposal of such proceeds; provisions relating to the prepayment of such series of the Bonds, if applicable; provisions for the application of unexpended proceeds of such series of the Bonds; provisions relating to the sale to the Administration of such series of the Bonds by private sale, without public bidding; provisions relating to the principal forgiveness of such series of the Bonds, if applicable; the identification of any dedicated sources of revenue required by the Administration pursuant to the MWIFA Act; certifications, representations, determinations, designations or elections relating to the tax-exempt status of interest payable on such series of the Bonds, if applicable; and all other terms and conditions upon which such series of the Bonds will be issued, sold and delivered. By resolution the Council may delegate to one or more Town officials the authority to make any determinations, approvals or decisions contemplated by this Section 6 with respect to a series of the Bonds. Any resolution may specify, prescribe, determine or provide for the determination of, or approve or provide for the approval of, the details required or authorized by this Section 6 for more than one series of the Bonds.

SECTION 7. BE IT FURTHER ORDAINED AND ENACTED that:

(a) Pursuant to the authority of the Enabling Act, the Refunding Act, Sections C7-19, C7-19.1 and C7-21 of the Charter and any other applicable law, the Town is hereby authorized and empowered to issue and sell from time to time, upon its full faith and credit, one or more series of general obligation bonds (each, a “series” of the Refunding Bonds and, collectively, the “Refunding Bonds”) for the purpose of currently refunding or advance refunding any of the Bonds issued pursuant to the authority of this Ordinance then outstanding, including prepaying or paying all or any portion of outstanding principal, prepayment premium and/or interest accrued or to accrue to the date of prepayment, purchase or maturity of the Bonds to be refunded, and paying costs and expenses in connection with the issuance, sale and delivery of such series of the Refunding Bonds, and, to the extent determined by the Council by resolution, interest on such series of the Refunding Bonds, for the public purpose of (A) realizing a savings in the total cost of debt service on a direct comparison or present value basis or (B) debt restructuring that is permitted by applicable law; provided that, the original aggregate principal amount of any such series of the Refunding Bonds may not exceed one hundred thirty percent (130%) of the aggregate principal amount of the Bonds refunded therefrom. Any such series of the Refunding Bonds may consist of one or more bonds and any bond may be issued in installment form and/or draw-down form. Prior to the issuance, sale and delivery of any series of the Refunding Bonds, the Council shall adopt a resolution or resolutions authorizing such series of the Refunding Bonds and specifying, prescribing, determining or providing for the determination of, or approving or providing for the approval of, the same types of matters, details, forms, documents, procedures or determinations detailed in Section 6 hereof that may be made or addressed with respect to each series of the Bonds, to the extent applicable with respect to such series

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of the Refunding Bonds, and as otherwise may be authorized or required by applicable law, including the purposes of the Refunding Act to be served by undertaking such refunding. Unless the Council determines otherwise in a resolution providing for any series of the Refunding Bonds, pursuant to the authority of the Refunding Act, each series of the Refunding Bonds shall be sold at a private sale, without soliciting bids (including, without limitation, through a direct purchase transaction). Any such sale on a private basis is hereby determined to be in the public interest due to the ability to time the market, negotiate with potential purchasers and thereby achieve a beneficial interest rate or rates and other beneficial terms (including restructuring terms, if applicable) by undertaking a private sale and, with respect to a private sale that involves a direct purchase transaction, the lower costs of issuance typically incurred with such method of private sale as compared to a negotiated underwriting or a public sale at competitive bid. By resolution the Council may delegate to one or more Town officials the authority to make any determinations, approvals or decisions with respect to a series of the Refunding Bonds. Any resolution may specify, prescribe, determine or provide for the determination of, provide for, or approve or provide for the approval of, the details required or authorized by this Section 7 for more than one series of the Refunding Bonds. The proceeds of each series of any issued Refunding Bonds are hereby appropriated for the purposes outlined or provided for in this Ordinance.

(b) In the event any series of the Refunding Bonds is sold to the Administration and the Administration requires that the Town establish a debt service reserve account to be funded from sources other than proceeds of such series of issued Refunding Bonds in order to provide security for such series of the Refunding Bonds as a condition to the issuance of such series of the Refunding Bonds, provisions relating to the establishment, funding and maintenance of such debt service reserve account (including, without limitation, increases or decreases in the amount to be retained in such account and replenishment of such account) and the investment and application of moneys held in such debt service reserve account shall be determined, approved or provided for by the Council by resolution (unless pursuant to then-applicable law an ordinance is required), and any such debt service reserve account may be identified in the applicable Loan Agreement (as defined in Section 9(a) below) as a dedicated source of revenues contemplated by the MWIFA Act.

(c) To the extent any series of the Refunding Bonds is sold to the Administration, the Council by resolution may specify, prescribe, determine or provide for the determination of, approve or provide for the approval of any determinations contemplated by this Ordinance that may be made with respect to any series of the Bonds, including, without limitation, entry into a new Loan Agreement with the Administration or any modification to an existing Loan Agreement, as applicable, and provisions for the potential forgiveness of any such series of the Refunding Bonds.

SECTION 8. BE IT FURTHER ORDAINED AND ENACTED that the Council is hereby authorized, by resolution, to make any further determinations or approvals or provide for any matters or actions deemed necessary or desirable in connection with the issuance of any series of the Refunding Bonds, whether or not sold to the Administration, including, without limitation, (i) any determination authorized by the Refunding Act, (ii) to commit or provide for the commitment of the Town to pay to the purchaser or purchasers of any series of the Refunding Bonds (A) any commitment fee or similar fee and any legal costs in connection with such purchaser's or purchasers' agreement

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to purchase such series of the Refunding Bonds and/or (B) any breakage compensation or other amount that may be determined to be due to such purchaser or purchasers in the event the Town fails to deliver such series of the Refunding Bonds and, in connection therewith, to approve or provide for the approval of, and the execution and delivery of, any agreement relating to such payment or payments (which such agreement may, but shall not be required to be, contained within any purchase or similar agreement for such series of the Refunding Bonds), and (iii) to approve or provide for any offering documents, credit enhancement, liquidity enhancement, ratings, or continuing disclosure undertakings relating to such series of the Refunding Bonds.

SECTION 9. BE IT FURTHER ORDAINED AND ENACTED that:

(a) As required by the MWIFA Act, the Town is hereby authorized to enter into one or more Drinking Water Loan Agreements with the Administration (each, a “Loan Agreement” and collectively, the “Loan Agreements”) in connection with (i) any series of the Bonds, and (ii) any series of the Refunding Bonds sold to the Administration. The final or substantially final form of any Loan Agreement shall be approved by the Council by resolution and the completion, execution and delivery of such Loan Agreement shall be authorized by the Council by resolution.

(b) The Town hereby acknowledges that the provisions of any Loan Agreement may allow for, among other remedies, all payments on the series of the Bonds or the Refunding Bonds subject to such Loan Agreement to be declared immediately due and payable upon the occurrence of any event of default provided for in such Loan Agreement.

SECTION 10. BE IT FURTHER ORDAINED AND ENACTED that as authorized by Section 9-1606(d) of the MWIFA Act, and contingent upon the issuance of any Bonds or Refunding Bonds to the Administration, the Town hereby pledges any moneys that the Town is entitled to receive from the State of Maryland, including the Town’s share of the State income tax, to secure its obligations under any Loan Agreement. Any such pledge may be evidenced and detailed in the applicable Loan Agreement.

SECTION 11. BE IT FURTHER ORDAINED AND ENACTED that the Town is hereby authorized and directed to pay any fees or costs provided for in any Loan Agreement that are not payable from proceeds of the Bonds or from the proceeds of any Refunding Bonds sold to the Administration, including, without limitation, any administrative fees and any ongoing fees or costs. The obligation of the Town to pay such amounts shall be absolute and unconditional as further provided in any Loan Agreement.

SECTION 12. BE IT FURTHER ORDAINED AND ENACTED that notwithstanding anything to the contrary contained in this Ordinance, the Town shall use and apply proceeds of each series of the Bonds and of any series of the Refunding Bonds sold to the Administration only as permitted by the related Loan Agreement, the Safe Drinking Water Act (as defined in such Loan Agreement) and the MWIFA Act (which may be referred to in each Loan Agreement as the “Act”).

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SECTION 13. BE IT FURTHER ORDAINED AND ENACTED that:

(a) The full faith and credit and unlimited taxing power of the Town are hereby pledged to the prompt payment of the principal of and interest on each series of the Bonds and the Refunding Bonds (each, a series of the “Obligations,” individually, an “Obligation” and, collectively, the “Obligations”) issued by the Town as and when the same are payable and to the imposition of the taxes hereinbelow described as and when such taxes may become necessary in order to provide sufficient funds to meet the debt service requirements of each series of the Obligations. Subject to the further provisions of this Section 13, the Town hereby covenants with the registered owners of each series of the issued Obligations to impose ad valorem taxes on all real and tangible personal property in the Town that is subject to assessment for unlimited municipal taxation at a rate and in an amount sufficient to pay the principal of and the interest on the Obligations in each fiscal year in which any of the Obligations are outstanding and to take any further action that may be lawfully appropriate from time to time during the period that the Obligations of such series remain outstanding and unpaid to provide the funds necessary to pay promptly the principal thereof and the interest due thereon. If the proceeds from the taxes so imposed in any such fiscal year are inadequate for such payment, additional taxes shall be imposed in the succeeding fiscal year to make up such deficiency.

(b) Notwithstanding the provisions of subsection (a) of this Section 13, the principal of and interest on each series of the Obligations will be payable in the first instance from revenues received by the Town in connection with the operation of the water supply system, including charges for the use of or connection to the water supply system, to the extent lawfully available for such purpose. To the extent of any funds received or receivable as described in this subsection (b) in any fiscal year, the taxes required to be imposed in accordance with subsection (a) of this Section 13 may be reduced proportionately.

(c) The foregoing provisions shall not be construed so as to prohibit the Town from paying the principal of and interest on any series of the Obligations from the proceeds of the sale of any other obligations of the Town (including, without limitation, with respect to any series of the Bonds, from the proceeds of any series of the Refunding Bonds) or from any other funds legally available for that purpose. Within any applicable limitations of Maryland or federal law (including, without limitation, the Internal Revenue Code of 1986, as amended, and the regulations issued thereunder), the Town may apply to the payment of the principal of or interest on any series of the Obligations any funds received by it from the State of Maryland or the United States of America, or any governmental agency or instrumentality, or from any other source, if the funds are granted or paid to the Town for the purpose of assisting the Town in accomplishing the type of project or projects which such series of the Obligations are issued to finance, reimburse or refinance or are otherwise available for such purpose, and to the extent of any such funds received or receivable in any fiscal year, the taxes hereby required to be imposed may be reduced proportionately.

(d) Any source of revenues referred to in this Section 13, and any additional source of revenues agreed to by the Town and the Administration and provided for by the Council by resolution, if applicable, may be identified as a dedicated source of revenue contemplated by the MWIFA Act in any Loan Agreement entered into by the Town with the Administration in connection with a series of the Bonds or the Refunding Bonds issued to the Administration. Any applicable Loan Agreement

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exhibits may describe such dedicated revenues by references that are similar but not identical to any references contained in this Ordinance or in any resolution relating to such series of the Obligations. Any such source of dedicated revenues may be identified as being subject to annual appropriation.

SECTION 14. BE IT FURTHER ORDAINED AND ENACTED that in addition to the refunding authority provided for in Section 7 of this Ordinance, subsequent to the sale, issuance and delivery of any series of the Bonds or the Refunding Bonds to the Administration, the Council by resolution may specify, prescribe, determine or provide for the determination of, or approve or provide for the approval of, any amendments or modifications to such series of the Bonds or the Refunding Bonds and/or the related Loan Agreement or Loan Agreements and any other documents, agreements or instruments executed and delivered in connection with the sale, issuance and delivery of such series of the Bonds or the Refunding Bonds, and/or provide for the execution and delivery of additional documents, agreements, certificates or instruments relating to such amendments or modifications (including, without limitation, any bond or bonds to be issued and exchanged for one or more of such series of the Bonds or the Refunding Bonds originally issued and delivered and any new or restated Loan Agreement), whether or not such amendments or modifications constitute a refunding or reissuance for purposes of federal and/or Maryland law. The provisions of this Section 14 shall also apply to any series of the Refunding Bonds that is not sold to the Administration, to the extent applicable.

SECTION 15. BE IT FURTHER ORDAINED AND ENACTED that by resolution, the Council may make any appropriate arrangements (including, without limitation, by authorizing one or more appropriate officials to make any elections, designations, determinations or filings on the Town's behalf) in the event any right of the registered owner of an Obligation to put or cause the redemption or prepayment of such Obligation at its option, or any change in the interest rate of an Obligation, or any other modification to an Obligation could lead to a reissuance of such Obligation for purposes of the Internal Revenue Code of 1986, as amended, and the regulations issued thereunder.

SECTION 16. BE IT FURTHER ORDAINED AND ENACTED that the Council by resolution may determine that any series of the Obligations authorized hereby may be consolidated with any bonds and/or refunding bonds authorized by the Council, as applicable, and issued as a single series of obligations.

SECTION 17. BE IT FURTHER ORDAINED AND ENACTED that with respect to any Obligations and any Loan Agreement, by resolution the Council shall delegate to one or more specified officials the authority to finally approve (to the extent the final form thereof is not approved by resolution), execute and deliver the same, and by resolution the Council may delegate to one or more specified officials the authority to negotiate, approve, execute and deliver, as applicable, any other documents, certificates or instruments relating to any of the Obligations or any Loan Agreement. The following Town officials: the Mayor, the Town Administrator, any Acting Town Administrator, the Associate Town Administrator, the Finance Director and all other appropriate officials of the Town, are hereby authorized, empowered and directed to (i) take any and all action necessary to complete and close the sale, issuance and delivery of any of the Bonds and the Refunding Bonds authorized hereby, (ii) negotiate, approve, execute and deliver all documents, certificates and instruments necessary or appropriate in connection with any such sale, issuance and delivery, to the

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extent authority with respect to the same has not been delegated by the Council to any specified official(s) in accordance with the preceding sentence, and (iii) carry out the transactions contemplated by this Ordinance, any ordinance supplementing or amending this Ordinance, any resolution adopted in furtherance of this Ordinance (as the same may be further supplemented or amended), and any such documents, certificates or instruments executed and delivered in connection with a series of the Obligations, all to the extent such action is within the scope of such official's authority and such action has not been specifically delegated to one or more officials by resolution of the Council.

SECTION 18. BE IT FURTHER ORDAINED AND ENACTED that the title of this Ordinance shall be published in accordance with the provisions of Section C3-10 of the Charter.

SECTION 19. BE IT FURTHER ORDAINED AND ENACTED that the provisions of this Ordinance shall be liberally construed in order to effectuate the transactions authorized or contemplated by this Ordinance.

SECTION 20. BE IT FURTHER ORDAINED AND ENACTED that this Ordinance shall become effective at the expiration of twenty (20) calendar days following approval by the Mayor or passage by the Council over the Mayor's veto, subject to the provisions of Section C3-12 of the Charter.

[CONTINUED ON FOLLOWING PAGE]

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THIS ORDINANCE was introduced and read at a meeting of the Council of the Town of Berlin, Maryland held on the _____ day of _____, 2026, and thereafter the title of this Ordinance was published.

A PUBLIC HEARING was held and this Ordinance was passed this _____ day of _____, 2026, by the Council of the Town of Berlin, Maryland, by the vote as indicated below:

Name	Counted toward Quorum			Recused	Absent
	Aye	No	Abstain		

Name:
Vice President of the Council

APPROVED on this _____ day of _____, 2026 by the Mayor of the Town of Berlin, Maryland and effective at the expiration of twenty (20) calendar days thereafter on the _____ day of _____, 2026 (the 21st day following the Mayor's approval).

Zack Tyndall, Mayor and President of the Council

ATTEST:

Kate Daub, Acting Town Administrator

#245790;50016.029

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October 13, 2026 Weekly Report

Departments This Week:

Economic and Community Development

- Attending and speaking at the Maryland Main Street Conference October 5–7.
- Completed all requested FOIA materials.
- Working with Worcester Goes Purple on the Christmas Cookie Crawl fundraising event.
- Working with the Ocean City–Berlin Rotary Club on Merry Marketplace.
- The Berlin Farmers Market runs through October, with the final market scheduled for Sunday, October 25 and the last 2nd Sunday Art and Vintage Market & Mini Makers Market is Sunday, October 13.
- Continuing to work on fall and holiday events, as well as the 2027 Town event schedule.
- Working with the Beach to Bay Heritage Area and Taylor House Museum on elements of the museums historic walking tour.
- Berlin will be featured on HallmarkChannel.com as a holiday destination, including a narrative and photos prepared for the feature.
- Will be on vacation October 8–12 and returning October 13.
- Wrote MHAA Mini-Grant for interpretation signage in partnership with the Taylor House Museum

Electric

- Trimmed trees numerous areas
- Replaced cross arms on numerous poles 210 circuit
- Replaced AMI demand meters
- Trenched in service to a new house
- Disconnected services for repairs
- Reconnected new service
- Stored old meters
- Cataloged old meter
- Changed out a faulted transformer
- Labeled primary wires

Finance Director

Continues to work on:

- FY 2026 Audit completion, outstanding reports for auditors.
- FY 2026 quarter performance. Preparation of financial highlights.
- FY 2026 capital projects for fixed assets.
- ChargePoint station contract review and billing reconciliations.
 - AMI meter opt-out PSC tariff and hearing, meetings, discussions
- Tyler's credit card processing and fees
- New credit card processing discussions.
- Grants, water loans, public works bond, electric AMI meters bond

- Opioid settlements, outstanding plan, and questions. Program implementation with Hope 4 Recovery.
- Bank accounts review, collateral coverage, positive pay implementation.
- CDA Bond paperwork, bond records information for USDA office.
- Delinquent accounts review
- Public Service Commissioner's reports and submissions, PCA calculations - Michelle
- DBF invoices review and processing
- EA invoices review and processing
- Credit card payments and processing- Shirley
- Bank reconciliations - Melissa
- Journal entries and invoices - Linda
- Electric rate study paperwork and necessary reports for evaluation
- Working with Booth and Assoc-in process
- Water and electric meter readings- Michelle
- Check processing and credit card payments, review registers, checks, and the Town's card payments - Shirley
- Department meetings scheduled, projects, and planning.
- Implementation of new Tyler modules for code enforcement, assets, and project accounting

Human Resources Department

- Processed payroll and all related reports on 10/02/26.
- Scheduled an initial round of interviews for Human Resources and Town Administrator. We are still working through the applications to determine if additional interviews should be scheduled at this time.
- Working on the payroll schedule and holiday schedule in ADP for 2027.
- Completed/updated the Town-wide holiday and meeting schedule for 2027, the organizational chart, the phone list, and the staff birthdays and anniversaries
- Continuing to work with Natalie to ensure the Town is enrolled in the FMLI program, we intended to seek a private plan through a consortium with MABE, MML, and MACO, but I received notice from someone in another county that they are not continuing with the consortium, while I have not seen the official notice, they did receive that notice from MACO, so I am exploring what that means for us. We are still required to declare our intent to join a private plan or enter the state plan by November 15th. Regardless, we will need to do something and need to file quarterly reports, so still working with ADP on the same.
- Working on a Human Resources Succession Guide for my replacement.
- Attended the annual SHRM conference in Ocean City, from October 4-6, 2026.
- Completed all onboarding paperwork with the two new Councilmembers, Stoeher and Weeg, congratulations!
- Working with One Digital as they are establishing the use of a third party for all COBRA notices for the Town, at no cost to the Town, but working with them to complete the paperwork to enroll the Town in the program. This will take a small administrative burden off of both Human Resources and Finance, as we currently handle the billing and payments.
- Developed three new policies for the Town: Personal Relationships Policy, Flex Time Policy, and a Time Theft Policy. These are new policies to the Town and will be brought to the Council for approval at one of the October Mayor and Council Meetings.
- Open positions:
 - Administrative Assistant II - Administration (on hold)

- Police Officer - entry-level and lateral - Police
- Police Communications Officer - full or part-time - Police
- Plant Operator I - Wastewater
- Human Resources Director - Administration
- Town Administrator - Administration
- Customer Service Representative - Customer Service/Finance (coming soon)

Planning Department

- Preparing for the 10/7/26 HDC meeting
- Preparing for the 10/7/26 BZA meeting
- Department presentation for new Council members
- Updated the Development Project list
- Working on a Performance Evaluation
- Announced the Halloween/Christmas house decorating contest on social media. More details to come.
- Meeting to discuss Boards and Commission members with expiring terms
- Researched the City of Salisbury's sidewalk repair code
- Working on revising the Rental License applications
- Ongoing review of development projects
- Received applications for: Building permits- 8, Grading/Excavation permits- 2, Fence permits- 2, Contractors License- 1, Business License- 1, LTR- 1, PIA- 3
- Released applications for: Building permits- 2, Fence- 1, Grading- 2
- Issued door tags/verbal warnings/corrective action letters for: Grass- 2, Exterior- 9, Ditch drainage- 2, Vehicle- 2, Rental license- 1, Complaint inspections
- Updating the Rental license spreadsheet- Chanita
- ESRI training - Meghan
- Cybersecurity training- Meghan
- Webinars for Water Resources related items- Meghan
- Submitted zoning data to MD Dept of Planning- Meghan

Police Department

- 9/7 Sgt Collins Graduated Northwestern University Center for Public Safety, School of Police Staff and Command
- 9/23 Sgt. Collins & K9 Dock Crisfield clam bake security detail
- 9/30-10/2 Chief Drewer FBI national Academy Assoc. conference
- 10/3 Chief Drewer, Capt. Fisher Funeral services for Chief Bacorn of Denton PD

Public Works

- PW put up 25mph signs along Buckingham Ln. to help slow traffic to a safer speed in that area.
- SDP comfort station is coming along. We are hopeful that it will be completed and able for park patrons to use here soon.
- We have 3 upcoming events we are assisting with this month, Fall Cruisers, Oktoberfest, and Trunk or Treat. We will provide crewing, traffic control, and trash collection during these events.
- PW continues to get data on the number of trash cans we're emptying each week. We hope to optimize our routes and get more accurate data about where the heaviest pickup areas are by doing this.
- Trash collection and recycling collection continues as normal.
- Daily maintenance in parks and town owned areas is taking place.

- Weekly street sweeping and street maintenance is taking place around time as well.

Water Resources

- Marking meters throughout the Town
- Cut grass throughout the Town
- Prepared and reviewed our Capital Improvements 5 Year Plan
- Maintenance on lawn mowers and tractors
- Maintenance equipment at the WWTP
- Training- JL
- Orientation with the newly appointed Council Members
- Hauled Sludge
- Cleaned Lift Stations
- Jetted Sewers

UNDERSTANDING YOUR MONTHLY PCA

TOWN OF BERLIN

Electric Dept.

How Berlin adjusts for changes in the cost of supplying electricity.

The Power Cost Adjustment (PCA) is a monthly adjustment that reflects the changes in the actual cost of supplying electricity to Berlin's customers.

Most electric utilities include a monthly adjustment that reflects changes in the cost of producing or purchasing electricity. This adjustment helps ensure that the actual cost of supplying power is accurately and proportionally reflected on customer bills.

1 POWER COSTS CHANGE

These costs include purchased energy, capacity, transmission, and fuel/ oil for Berlin's generators.

2 BERLIN CALCULATES THE PCA

The monthly factor compares power supply costs with the amount already recovered through the base power-cost rate.

3 THE BILL ADJUSTS

The PCA may increase or decrease as power supply costs and the annual true-up change.

Why Berlin uses a PCA:

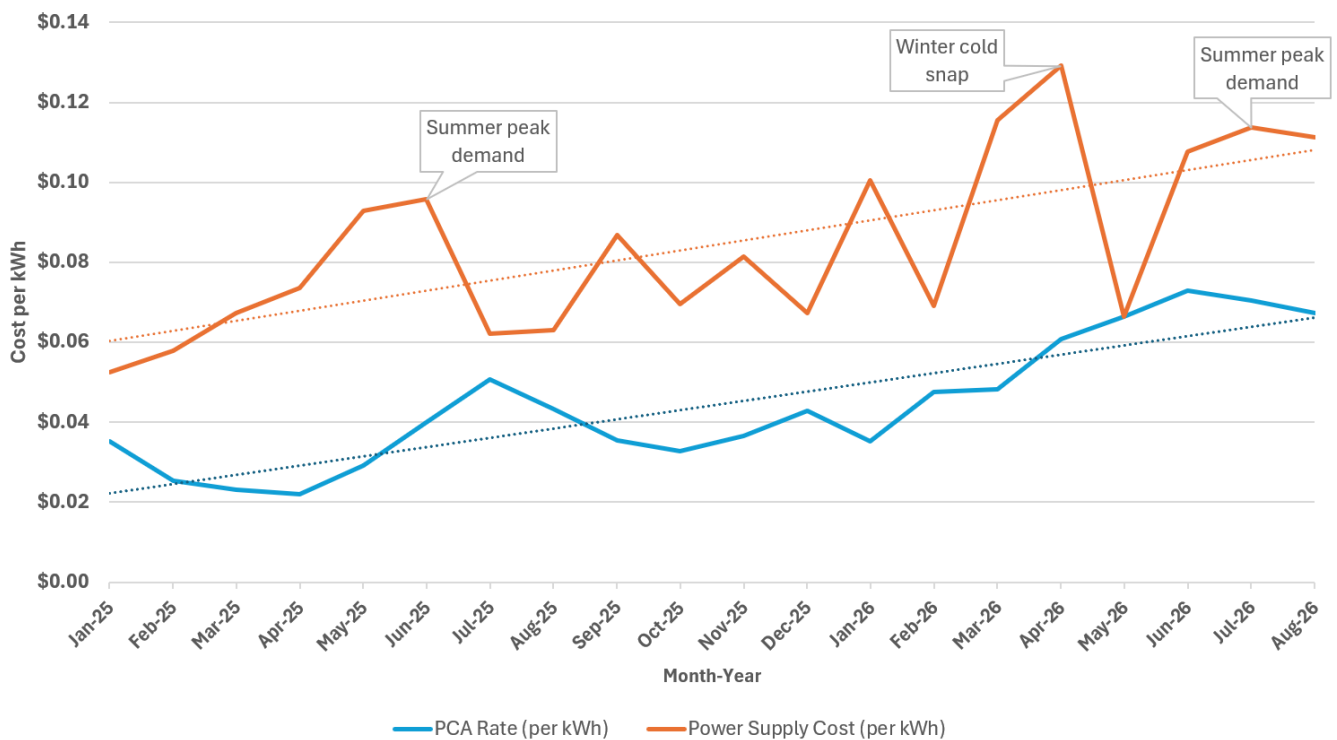
A practical way to reflect changing costs

- Electricity supply costs can change from month to month, just like the prices of gasoline and other fuels.
- The PCA adjusts the power supply portion of the bill without requiring Berlin to rewrite its base rates every time costs change.

Base rates have not changed for more than a decade

- Berlin's base electric rates have remained unchanged for over 10 years.
- The PCA allows changes in purchased power and generation-related costs to be reflected separately and transparently.

How Changes in Power Supply Costs Affect the PCA



COMMON QUESTIONS

“Why does the PCA change?”

The cost of purchased power and operating Berlin's generators can change on a monthly & annual basis. These costs can increase seasonally as well, during periods of high usage and demand, such as in the summer. The PCA follows those underlying costs and the annual cost reconciliation.

“Is the PCA a separate service?”

No. It is part of the rate structure used to recover power supply costs. It is designed and intended to recover costs, not to create a separate, unrelated charge.



TOWN OF BERLIN RESIDENTIAL ELECTRIC CHARGES

2025	Janaury	February	March	April	May	June	July	August	September	October	November	December
Customer Charge (\$/month)	\$ 4.60	\$ 4.60	\$ 4.60	\$ 4.60	\$ 4.60	\$ 4.60	\$ 4.60	\$ 4.60	\$ 4.60	\$ 4.60	\$ 4.60	\$ 4.60
Energy Charge First 500 kWh (\$/kWh)	0.098920	0.098920	0.098920	0.098920	0.098920	0.098920	0.098920	0.098920	0.098920	0.098920	0.098920	0.098920
Energy Charge Over 500 kWh (\$/kWh)	0.084650	0.084650	0.084650	0.084650	0.084650	0.084650	0.084650	0.084650	0.084650	0.084650	0.084650	0.084650
PCA (\$/kWh)	0.03531	0.02537	0.0232	0.022040	0.029260	0.039900	0.050620	0.043410	0.035400	0.032760	0.036480	0.042870
Environmental Surcharge (\$/kWh)	0.00015	0.00015	0.00015	0.000150	0.000150	0.000150	0.000142	0.000142	0.000142	0.000142	0.000142	0.000142
Franchise Surcharge (\$/kWh)	0.00062	0.00062	0.00062	0.000620	0.000620	0.000620	0.000620	0.000620	0.000620	0.000620	0.000620	0.000620
USP Surcharge (\$/month)	0.32	0.32	0.32	0.32	0.32	0.32	0.32	0.32	0.32	0.32	0.32	0.32
2026	Janaury	February	March	April	May	June	July	August	September	October	November	December
Customer Charge (\$/month)	\$ 4.60	\$ 4.60	\$ 4.60	\$ 4.60	\$ 4.60	\$ 4.60	\$ 4.60	\$ 4.60	\$ 4.60	\$ 4.60	\$ 4.60	\$ 4.60
Energy Charge First 500 kWh (\$/kWh)	0.098920	0.098920	0.098920	0.098920	0.098920	0.098920	0.098920	0.098920	0.098920	0.098920	0.098920	0.098920
Energy Charge Over 500 kWh (\$/kWh)	0.084650	0.084650	0.084650	0.084650	0.084650	0.084650	0.084650	0.084650	0.084650	0.084650	0.084650	0.084650
PCA (\$/kWh)	0.03524	0.04752	0.04824	0.06079	0.06634	0.07289	0.07046	0.06739	0.08007			
Environmental Surcharge (\$/kWh)	0.000142	0.000142	0.000142	0.000142	0.000142	0.000142	0.00015	0.00015	0.00015	0.00015	0.00015	0.00015
Franchise Surcharge (\$/kWh)	0.00062	0.00062	0.00062	0.00062	0.00062	0.00062	0.00062	0.00062	0.00062	0.00062	0.00062	0.00062
USP Surcharge (\$/month)	0.32	0.32	0.32	0.32	0.32	0.32	0.32	0.32	0.32	0.32	0.32	0.32



Check Run Report
will be posted
when available.