



**Borough of Berlin
700 North Street
Berlin, PA 15530**

Regular Council Meeting

September 7, 2023 – 4:30 P.M.

Approved and Official Minutes

The meeting was called to order by President Charles Rhodes

Pledge of Allegiance to the American Flag was quoted.

Council Attending:

Charles Rhodes – Present

Michael Lottig – Present

Clifford Horner – Present

John Harding – Present

Marshal Engleka – Present

Stephen Custer – Present

Thomas Fisher – Absent

Mayor Joseph Krause - Present

Others Attending – Scott Miller, Berlin Municipal Water Authority; Brad Stinebiser, The EADS Group; Paul Yesconis and Scott Merritt, EnviroTrac; Jeanne Johnson; D. Wilson; Tom Miller; April Ressler, Teeter Group Insurance; Cathie Beal, Somerset County Recycling Coordinator; Nathan Parish; Tacy Wilson and Traci Horning, Executive Borough Secretary.

Paul Yesconis and Scott Merritt of EnviroTrac presented to Council about a groundwater treatment system to be installed due to a petroleum leak in 2021 on the Valero premises. The system and what was being asked of the Borough Council was explained. The council stated there will be a decision made next month October 2023 at the next meeting.

April Ressler, Teeter Group Insurance presented to Council Pollution Liability and Cyber Solutions Cyber Liability and Data Compromise Insurance. These policies are being recommended to have.

Cathie Beal, Somerset County Recycling Coordinator presented to the Council about the Somerset County Recycling Program. A tire collection day will be held September 30, 2023, from 9 am to 1 pm at the Berlin Borough maintenance Building on Stewart Street. Car tires \$4/tire, 19.5 tires \$11/tire and tractor trailer tires \$23/tire.

Motion by Michael Lottig, seconded by Stephen Custer, to approve the August 3, 2023, Regular Council Meeting. Ayes 6, Nays 0. Motion carried.

Motion by Marshal Engleka, seconded by Clifford Horner, to approve the Mayor and Police Department's Report for August 2023. Ayes 6, Nays 0. Motion carried.

Park and Planning

Clifford Horner stated the kiosk should be done by the end of September.

Garbage

Garbage truck is waiting on back order of parts to be finished.

Personnel and Finance

Motion by Michael Lottig, seconded by John Harding to approve the August 2023 bills. Ayes 6, Nays 0. Motion carried.

Motion by Clifford Horner, seconded by Stephen Custer to approve the Treasurer's Report for August 2023. Ayes 6, Nays 0. Motion carried.

Financial Requirement and Minimum Municipal Obligation for the year 2024 Borough (CB Plan) Pension Plan requires an administrative charge of \$80.00 (4 members X \$20.00).

Motion by Michael Lottig and seconded by Stephen Custer to approve the Minimum Municipal Obligation for the Borough pension plan 56-015-3-n2 in the amount of \$80.00. Ayes 6, Nays 0. Motion carried.

The Financial Requirement and Minimum Municipal Obligation for the year 2024 current Borough Pension Plan requires funding at .1333 of 2023 wages and administrative charge for a total funding in the amount of \$47,013.00.

Motion by Michael Lottig and seconded by Stephen Custer to approve the Minimum Municipal Obligation for the Borough pension plan 56-015-3-n1 in the amount of \$47,013.00. Ayes 6, Nays 0. Motion carried.

House

Community hall floors have been stripped, cleaned, and waxed.

Streets, Sidewalks, Storm Sewers

Ordinance #362 for side-by-sides in Berlin Borough was properly advertised before this meeting.

Motion by Michael Lottig, seconded by John Harding to approve Ordinance #362 AN ORDINANCE OF THE BOROUGH OF BERLIN, SOMERSET COUNTY, PENNSYLVANIA, DESIGNATING THE PUBLIC ROADWAYS WITHIN THE BOROUGH OF BERLIN AS MIXED-USE RECREATIONAL AND REGISTERED VEHICLE ROADS AND REGULATING THE USE OF RECREATIONAL VEHICLES THEREON to be approved and passed September 7, 2023. Ayes 6, Nays 0. Motion carried.

Mayor Joseph Krause was a NO for Ordinance #362. To approve Ordinance #362 a roll call of council members had to be done to see if majority plus one (5 council members) would approve Ordinance #362:

Charles Rhodes – President: YES
Michael Lottig – Vice-President: YES
Clifford Horner – President Pro-Temp: YES
Marshal Engleka – YES
John Harding – YES
Stephen Custer - YES
Thomas Fisher – NOT PRESENT

Joseph Krause – Mayor: NO

Ordinance #362 reads as follows:

BERLIN BOROUGH

ORDINANCE NO. 362

AN ORDINANCE OF THE BOROUGH OF BERLIN, SOMERSET COUNTY, PENNSYLVANIA, DESIGNATING THE PUBLIC ROADWAYS WITHIN THE BOROUGH OF BERLIN AS MIXED-USE RECREATIONAL AND REGISTERED VEHICLE ROADS AND REGULATING THE USE OF RECREATIONAL VEHICLES THEREON.

WHEREAS, the State of Pennsylvania has enacted legislation known as the Snowmobile and All-Terrain Vehicle Law (75 Pa. C.S.A. §7701, et seq.), which authorizes municipalities such as Berlin Borough to designate any Highway, Road or Street within its jurisdiction as a Snowmobile Road, an ATV Road, or both;

WHEREAS, the Borough Council of the Borough of Berlin has determined it is in the best interest of the Borough and necessary and proper for the safety and welfare of the residents and Property Owners of Berlin Borough, along with all other users of the roads and streets within the Borough, to designate all roads within the Borough as "Joint Use" Roads so as to permit Snowmobile and ATV use as defined herein in conjunction with use by other Vehicles requiring Registration as these terms are defined at 75 Pa. C.S.A. §102.

NOW, THEREFORE, the Borough Council of Berlin hereby ORDAINS AND ENACTS as follows:

ARTICLE 1 SHORT TITLE

101. This Ordinance shall hereafter be known and cited as the "RECREATIONAL VEHICLE ORDINANCE."

ARTICLE II
PURPOSE

201. The purpose of this Ordinance is to designate all public Roads within the municipal boundaries of Berlin Borough as Snowmobile and ATV roads and that use of these roads will be shared with registered vehicular traffic.

ARTICLE III
DEFINITIONS

301. The following terms shall have the meaning provided at 75 Pa. C.S.A. §7702, as amended:

- (a) All-Terrain Vehicle or "ATV"
- (b) Department
- (c) Head lamp
- (d) Highway
- (e) Snowmobile
- (f) Street
- (g) Tail Lamp

302. The following terms shall have the meaning provided at 75 Pa. C.S.A. §102:

- (a) Motor Vehicle
- (b) Registration
- (c) Traffic
- (d) Trafficway
- (e) Vehicle

303. Additionally, for purposes of this Ordinance, the following additional terms are defined as follows:

- (a) "Joint-Use" means shared use of Roads or Streets within the Borough by Recreational Vehicles and a Vehicle or Vehicles requiring Registration.
- (b) "Operator" means any person who operates or is in actual physical control of a Recreational Vehicle.
- (c) "Owner" means any of the following:
 - (1) a person who holds the legal title to a Recreational Vehicle.
 - (2) a vendee or lessee of a Recreational Vehicle, which is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or less; and/or
 - (3) a person renting a Recreational Vehicle or having the exclusive use of a Recreational Vehicle.

- (d) "Operate" means to ride in or on and to be in actual physical control of the operation of a Recreational Vehicle.
- (e) "Person" means an individual, partnership, corporation, the State or any of its agencies or subdivisions, and any body of persons, whether incorporated or not.
- (f) "Road" or "Roadway" means the improved portion of a Highway or Street within the jurisdiction of Berlin Borough designated for public use to include the berm that is designated or ordinarily used for travel by a Vehicle requiring Registration.
- (g) "Recreational Vehicle" means an All-Terrain (ATV) or Snowmobile as defined at 75 Pa. C.S.A. §7702, as amended.
- (h) "Shoulder" or "Berm" means that portion of a Road or Street on either side of the paved portion of the Road that is improved with gravel for the safety and convenience of vehicular traffic, and which is within the Borough right-of-way for the Road or Street in question.
- (i) Any term not defined herein that is necessary for proper interpretation of this Ordinance shall have the definition found in the Pennsylvania Vehicle Code (75 Pa. C.S.A. §101, et seq.) or where not defined therein, the term's plain meaning.

ARTICLE IV DESIGNATION OF HIGHWAYS AND STREETS

401. As permitted under the provisions of the Pennsylvania Vehicle Code pertaining to Snowmobiles and All-Terrain Vehicles at 75 Pa. C.S.A. §7722(a), all Roads within Berlin Borough shall be and are hereby designated as ATV and Snowmobile Roads and hereinafter, these Roadways shall be designated as "Joint Use" Roads, as defined herein and as permitted in this Ordinance and other Ordinances of Berlin Borough.

ARTICLE V REGULATIONS PERTAINING TO THE USE OF RECREATIONAL VEHICLES

501. Any Person who Operates a Recreational Vehicle on a Roadway within Berlin Borough shall do so only in full compliance with the provisions of the Pennsylvania Snowmobile and All-Terrain Vehicle Law, 75 Pa. C.S. Section 7701, et seq. (as amended), which is incorporated herein by reference.

502. Every person who operates a Recreational Vehicle on a Road within Berlin Borough must have in their possession a valid operator's license (driver's license) issued by the Commonwealth of Pennsylvania, Department of Transportation, or other State.

503. No Person shall Operate, and no Owner or Dealer shall permit the Operation of a Recreational Vehicle in any of the following ways:

- (a) Across a privately-owned driveway that abuts the public Roadway.
- (b) Without displaying a lighted Head lamp and a lighted Tail lamp at all times of operation on a Roadway within the Borough.
- (c) Unless such Recreational Vehicles are equipped with a stock muffler in good working order.
- (d) Snowmobiles are prohibited from Operating on a Roadway that is not snow covered. For purposes of this provision, a road is considered snow covered where the pavement is not visible through the snow cover. Where a Road is NOT snow-covered, a Snowmobile may only operate on the Shoulder or Berm of the Road provided that no portion of the ski or skis is in contact with the paved non-snow-covered portion of the Roadway.

504. No person shall operate a Recreational Vehicle between midnight and 6:00 am.

505. In the event of a conflict between any provision of this section and a provision of the Pennsylvania Snowmobile and All-Terrain Vehicle Law, or the Pennsylvania Motor Vehicle Code, the more restrictive provision shall apply.

ARTICLE VI PENALTIES

601. In addition to any other remedy or penalty available or imposed by law, any person, firm or corporation who shall violate any provision of this Ordinance, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Ordinance continues or each Section of this Ordinance, which shall be found to have been violated shall constitute a separate offense.

ARTICLE VII SEVERABILITY

701. The provisions of this Ordinance shall be severable, and if any provision hereof shall be declared unconstitutional, illegal or invalid by a court of competent jurisdiction, such declaration or decision shall not affect the validity of any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent of the Borough Council of the Borough of Berlin that this Ordinance would have been enacted had any such unconstitutional, illegal or invalid provision not been included therein.

ARTICLE VIII
REPEALER

801. Any Ordinances or portions of Ordinances of the Borough which are inconsistent herewith are hereby repealed.

ARTICLE IX
GENDER

901. In the language set forth in this Ordinance, the singular shall include the plural, and the masculine the feminine and/or gender where appropriate.

ARTICLE X
EFFECTIVE DATE

1001. This Ordinance shall become effective on the date of enactment hereof.

ARTICLE XI
FILING OF ORDINANCE


1101. This Ordinance shall, upon enactment, be properly filed with the Borough records in the official Borough Ordinance Book at the Borough Offices.

ORDAINED AND ENACTED this 7th day of September, 2023.

ATTEST:


Marshal Engleka, Council

BOROUGH OF BERLIN

By 
Charles Rhodes, President of Council

EXAMINED AND APPROVED this _____ day of _____, 2023.

Mayor

On the 500 block of Washington Street the storm sewer line is blocked and can't be opened so the Council had decided to dig the storm sewer line up to see why the storm sewer line is backing up.

Motion by Michael Lottig, seconded by John Harding to approve having the section of the storm sewer line on the 500 block of Washington Street to be dug up and fixed. Ayes 6, Nays 0. Motion carried.

Motion by Michael Lottig, seconded by Clifford Horner to approve the placement of 15MPH signs on North Broadway Street. Ayes 6, Nays 0. Motion carried.

Traffic/Street signs on Main Street have been evaluated and the council has no motion to remove or change any of the signs.

A request was made to remove the No Parking sign at 420 Division Street since there is none on any other parts of Division Street. A discussion among Council to remove the sign or put other No Parking signs along other parts of Division Street.

Motion by John Harding, seconded by Stephen Custer to approve the placement of No Parking signs all of Division Street. Ayes 6, Nays 0. Motion carried.

A request was made to place No Parking signs on the opposite side of the Version building of Diamond Street since cars can park on both sides of Diamond Street. A discussion among Council to place No Parking signs on the East side of Diamond Street was discussed and it was tabled.

A complaint was made about people letting their animal's poop on the sidewalks, streets and personal property. The suggestion was made to please contact the Borough Police or the Borough Office if anyone knows who is letting their animal's poop on any property and not clean it up.

Electric & Equipment

Motion by Clifford Horner, seconded by Michael Lottig to approve the ordering of five (5) Centron electric meters for local businesses in the amount of \$2,101.00 with a ship date of 38 to 40 weeks. Ayes 6, Nays 0. Motion carried.

Motion by John Harding, seconded by Michael Lottig to approve the donation of the old zero turn mower to the Municipal Authority. Ayes 6, Nays 0. Motion carried.

First Energy is requesting a sketch to be put on a survey of the fence to be placed at the electrical substation on Vine Street.

Motion by Marshal Engleka, seconded by Clifford Horner to approve Lois Witt Caton, Solicitor, to draft an agreement for leasing the white building on the corner of Vine Street and Fletcher Street from the Holy Trinity Lutheran Church. Ayes 6, Nays 0. Motion carried.

First Energy Corporation sent a letter to notify the Borough of Berlin that First Energy is undergoing a corporate reorganization of its Pennsylvania subsidiaries.

Martain Cain from Dylan Energy will be doing a presentation on September 11, 2023, at 5 pm to Somerset Borough of what his company is offering to Berlin and Somerset.

Fire & Police

Police Coverage hours:

July 30 – August 5

FT hrs = 90 (W. Gonzalez 50, R. Norman 40)

PT hrs = 5 (M.Craig 5)

August 6 - August 12

FT hrs = 82 (W. Gonzalez 42, R. Norman 40)

PT hrs = 0 (M.Craig 0)

August 13 – August 19

FT hrs = 90 (W. Gonzalez 50, R. Norman 40)

PT hrs = 6.5 (M.Craig 6.5)

August 20 – August 26

FT hrs = 85 (W. Gonzalez 42, R. Norman 43)

PT hrs = 0 (M.Craig 0)

August 27 – September 2

FT hrs = 92 (W. Gonzalez 50, R. Norman 42)

PT hrs = 3.5 (M.Craig 3.5)

The Borough of Berlin and the Borough Police have come to an agreement with the union contract which is set to expire December 31, 2023. Council members all have received a copy of the new contract which will be approved at the next meeting scheduled for October 5, 2023.

Motion by Marshal Engleka, seconded by Michael Lottig to approve the purchase of four (4) tires and an alignment for the police car #12 from Berlin Oil Company in the amount of \$1,084.00. Ayes 6, Nays 0. Motion carried.

Motion by John Harding, seconded by Marshal Engleka to approve the purchase of three (3) body cameras and a five (5) year warranty for the police department from Axon Enterprise, Inc in the amount of \$21,775.00. Ayes 6, Nays 0. Motion carried.

Financial Requirement & Minimum Municipal Obligation Budget for 2024 for Police Pension Plan in the amount of \$18,641 was presented to Council at this meeting.

Other Information

The Berlin Fife and Drum Corps. have requested permission to have a Chicken BBQ on the Lower Diamond at the clock on September 30, 2023, from 11 am to 1 pm.

Motion by John Harding, seconded by Michael Lottig to approve The Berlin Fife and Drum to have a Chicken BBQ on September 30, 2023 at the clock on the Lower Diamond. Ayes 6, Nays 0. Motion carried.

Somerset County Boroughs Association Dinner Meeting Wednesday October 11, 2023, at Rizzo's Restaurant at 6:30 p.m.

Motion by Stephen Custer, seconded by John Harding to make a \$100 donation to the Somerset Human Society. Ayes 6, Nays 0. Motion carried.

Motion by Marshal Engleka, seconded by John Harding to approve the PA Municipal Code Alliance as the code inspection office effective after a 30-day notice to the Commonwealth Code Inspection Service of their discontinued service. Ayes 6, Nays 0. Motion carried.

Somerset Conservation District letter for Completeness Notification for Columbia Gas of PA, Berlin LP Pipeline Installation Project, NPDES General Permit Application.

A Tax Claim Letter regarding the Upset Tax Sale/Judicial Sale for Somerset County was presented to the Council.

Municipal Authority Update

None.

Adjournment

At 6:30 P.M. a motion was made by John Harding, seconded by Michael Lottig to adjourn this meeting. Ayes 6, Nays 0. Motion carried.

Traci Horning

Submitted By: Traci Horning, Executive Secretary