

**NEW BERLIN BOROUGH COUNCIL  
REGULAR COUNCIL MEETING**

A regular meeting of the New Berlin Borough Council was held on October 10, 2018, at 7:00 pm at the New Berlin Borough Community Center located at 318 Vine Street, New Berlin, PA. Present were President Julianne Finkbiner, Vice-President Jared Busby, Councilwoman Lisa Decker, Councilwoman Betty Kratzer, Councilwoman Elaine Hopkins, and Councilwoman Barbara Stamm. Rebecca Witmer, Secretary/Treasurer; Wendy Cole, Solicitor; L. Eric Hassenplug, Chief of Police; and Lester Hummel, Street Department Supervisor were also present. Councilwoman Lynda Frederick and Mayor Bonnie Hamilton were absent from the meeting. New Berlin resident Barry Kuhns was present as a visitor to observe the meeting. Jennifer Hain, Assistant Director of SUN Area Technical Institute was present as a visitor to discuss a possible partnership between the police department and the school for police safety officer services.

The meeting was brought to order by President Julianne Finkbiner with The Pledge of Allegiance.

**APPROVAL OF MINUTES – September 12, 2018 Council Meeting** – Vice-President Jared Busby made a motion to approve the minutes. Councilwoman Betty Kratzer made a 2<sup>nd</sup> to the motion. Vote was taken with all in favor and none opposed. Motion carried.

**VISITOR BUSINESS – Barry Kuhns** - Borough resident Barry Kuhns was present to observe the meeting.

**Director of SUN Area Technical Institute** - Jennifer Hain, Assistant Director of SUN Area Technical Institute was present to inquire if the borough would entertain the idea of allowing New Berlin police officers to act as school safety resource officers. The school applied for a grant for a school safety officer but funds were not awarded. Ms. Hain explained that it is not likely they will receive such a grant anytime in the near future. The school is in a smaller community and doesn't have many reportable incidents. Therefore the statistics are not significant enough to show need or cause for the grant to be awarded to the SUN Area Technical Institute.

Several surrounding schools are actively pursuing information to obtain school safety resource officers. The SUN Area Technical Institute is concerned how they will be viewed in the public eye if surrounding schools obtain a school resource officer but SUN Tech does not. The institute does not want to be seen as an educational facility that does not care about the safety of its students.

There is a difference in how a police officer and how a school safety resource officer would need to handle incidents that arise. Therefore, should the borough be interested in negotiating an agreement, the police officers or officer who would serve as the school safety resource officer would need to have additional training.

Chief Hassenplug stated with the hours each part-time officer is available, only having one of the borough officers trained to be a school safety resource officer might be an issue. It's something that could be talked about and worked out with the school should the borough decide to further pursue the idea. In the meantime, the chief will see that an officer stops by the school to show a presence while they are on duty in the borough.

President Finkbiner stated the mayor, police committee, and the chief would need to meet to discuss whether or not it is something the borough would like to pursue.

**COMMITTEE REPORTS – Activities Committee - Letters from Johnson Family** – The two letters received from the Johnson Family were discussed.

The letter from the Johnson's indicated that it was illegal for the borough to prohibit ingress and egress to a property. Solicitor Cole stated as long as notice is given and the time of the closure is reasonable, a municipality can close a street.

Response to the Johnson Family should indicate the borough understands that the event may be an inconvenience for some residents but it always does its due diligence in preparing for New Berlin Day. Solicitor Cole stated the response letter should also state that the borough council was in receipt of their letters regarding the event and have reviewed their concerns.

Several other language suggestions for the response letter were discussed.

Solicitor Cole stated that notice must be given to residents about the street closure. Therefore, the Johnsons will be notified about New Berlin Day and the reserved parking next year even though they have asked the borough not to contact them in the future regarding New Berlin Day.

Vice-President Jared Busby will write a response letter to the Johnson Family in his roles as Vice-President of Council and President of the Activities Committee.

**CKCOG Maintenance Code** – The Secretary/Treasurer stated the CKCOG asked her to relay to council that several other municipalities surrounding New Berlin either already adopted a landlord ordinance or are in the process of adopting one. Therefore, people who are not able to rent in those areas due to being nuisance tenants will rent in municipalities which do not have an ordinance that addresses nuisance tenants.

Should council wish to adopt any of the CKCOG Code, they must adopt Sections 1 through 6. The others are optional. Council discussed if they wished to consider adopting the CKCOG Code and, if so, which other sections they should consider adopting. It was also discussed whether council should adopt their own landlord ordinance which requires registration and includes a section about nuisance tenants.

The Secretary/Treasurer will give the fire company a copy of the CKCOG Code so they can review the fire safety portion of the code and give council their thoughts. That way, if council decides to adopt any of the CKCOG Code, they can adopt the fire safety portion at the same time.

The goal of council is to come to a determination as to which, if any, sections of the CKCOG Code to adopt by January of 2019. If council decides against adopting Code in its entirety, they should then determine what actions should be taken, if any, regarding a landlord ordinance.

**Finance Committee – Budget** – The finance committee continues to work on the budget.

**HVAC – Borough Office** – The heating and cooling system in the borough office has reached its useful life. A quote from SJ Eaton showing several different size units was received. There are some questions about the quote and more will be sought before council discussion is needed.

**POLICE REPORT – September Police Report** – The September Police Report was reviewed.

**New Hire** – Chief Hassenplug stated he would like to hire at least one other officer but needs to advertise.

**Motion** – Councilwoman Elaine Hopkins motion to advertise for a new police patrol officer. Councilwoman Lisa Decker made a 2<sup>nd</sup> to the motion. Vote was taken with all in favor and none opposed. Councilwoman Barbara Stamm was absent from the vote due to needing to leave the meeting for a few minutes. Motion carried.

**Officer Stroup Probation Period** – Chief Hassenplug stated Officer Stroup is at the end of his probation period and he recommends moving him from probationary part-time patrol officer to regular status part-time patrol officer with the standard pay increase.

**Motion** – Councilwoman Elaine Hopkins made a motion to end Officer Stroup’s probation period, hire him as a part-time regular status police patrol officer, and give him the standard pay increase to \$15.00 per hour. Vice-President Jared Busby made a 2<sup>nd</sup> to the motion. Vote was taken with all in favor and none opposed. Motion carried.

**STREET SUPERVISOR REPORT – Walnut Street Wall** – The Street Department Supervisor stated he met with the engineer regarding the wall on Walnut Street. A report from the engineer was given to everyone and is on file at the borough office for future reference.

**Repair to Floorboards - Chevy Truck** – There was discussion regarding the Chevy truck floorboard repair. A motion to hire Willy’s Auto Body for the repair was made and passed at the meeting last month. Council and the solicitor discussed whether the motion from the last meeting could be rescinded with another motion or if there was another method required. The Street Department

Supervisor stated Willy's Auto Body will perform the work as indicated by motion at the last meeting and will contact them regarding the repair.

**MAYOR'S REPORT** – Mayor Hamilton was absent from the meeting.

**SOLICITOR'S REPORT – Properties in Code Violation on Front Street and Spangler Street** - Solicitor Cole stated she met with both Jim Emery from CKCOG and the borough secretary/treasurer regarding the Front Street and Spangler Street Properties as council directed.

**Spangler Street Property** – The owner of the Spangler Street property was sent notice from CKCOG stating that the property had to be up to codes within 90 days or the borough was going to seek condemnation of the property. As per the CKCOG, the approximate cost of the Spangler Street structure demolition is \$7,000.00.

**Front Street Property** – The CKCOG will soon be executing a search warrant on the Front Street property as directed by council.

Solicitor Cole recommends council delay condemnation proceedings until the search warrant is executed on the Front Street Property and notices regarding that property are given to the owner. That way, should the Front Street property violations not be remedied and the violations are so gross as to condemn that property, the solicitor can petition the court for both properties at the same time. Should condemnation of the Front Street property not be needed, council can still choose to move forward with condemnation of the Spangler Street property.

**Green Street Pond Easement** – Solicitor Cole stated she was not at the meeting last month but understands there was work done by the borough on private property. The easement to go onto the property to do any work is owned by the developer, not the borough.

The solicitor inquired if the borough would like to seek easement for the drainage ponds. Vice-President Jared Busby stated that he understands that if it is not maintained, the culvert under the street will get blocked which will cause an issue under the street. If that happens, the borough will

need to dig up the street, costing more money for the borough in the long run. The street department supervisor stated it is private property but the borough storm water goes into those ponds. French drains from the homes in the development go into the ponds as well. In the past, the engineer who looked at the ponds recommended the borough put cleanouts within the borough right-of-way to allow the borough to maintain the storm water culvert under the streets. If the borough does not want to put cleanouts on the right-of-way and they want to clean it from the pond areas, they must seek an easement. The borough cannot use tax payer money to perform work on private property. The property owner is responsible to maintain anything on private property.

The street department supervisor inquired if the owner of the property could have dirt hauled in to fill the pond. Solicitor Cole stated the property owner could technically do that but their neighbors would likely have a cause of action against them because the neighbors' basements drain out and empty into that pond. Also, if it begins causing other issues, the borough could give notice to the property owner to maintain the pond. If the property owner does not maintain the pond after notice is given, the borough can then maintain the pond and bill the property owner for the maintenance.

The street department supervisor stated he will let the homeowner know he would be better off just having the pond filled in. The advice given to the street department supervisor was he should not tell the homeowner that.

Solicitor Cole stated that borough workers may not go onto private property and perform work for any reason. That means any use of equipment, employee hours, hiring someone else to do work on private property, or anything similar.

Solicitor Cole stated she isn't certain an easement is the correct solution for this issue. It makes more sense to go with the engineer's original recommendation and put cleanouts in on the right-of-way. An engineer should be consulted so the borough has an idea of how many cleanouts will be needed and get an idea of the project size.

The street department supervisor stated he can clean out the storm water drains via the grates in the road. He can open the grates and use a shovel to clear the debris from the boxes under the grates as he used to do. Council inquired why that same method hasn't been used recently. The street department supervisor stated the ponds should be dug out or graded just below those drainage holes in order for the water to be free flowing. The discussion then went back to the ponds being the responsibility of the property owner. The borough can clean out the grates but the property owner should be maintaining the pond. Maintenance by the property owner is making sure the pond is graded correctly.

Solicitor Cole will look into some case law so council has a clear answer about the maintenance of storm water runoff draining into ponds on private property. However, she is sure the answer will be that the borough cannot do the maintenance if the pond is on private property.

**Executive Session** - An executive session was held at 8:36pm to discuss a legal matter. All council members, the secretary/treasurer, and the solicitor were present in the session. Executive session ended at 9:05pm and the regular session resumed.

**Motion** - Vice-President Jared Busby made a motion not to pay the \$100.00 bill from Gessner's Excavating with borough funds. Councilwoman Elaine Hopkins made a 2nd to the motion. Vote was taken with all in favor and none opposed. Motion carried.

Council discussed writing a letter to the pond owner explaining that the borough cannot maintain their pond due to it being on private property. Solicitor Cole was directed to write a letter to the homeowner. The letter should include the invoice or a copy of the invoice asking them to pay it and language explaining that council was not made aware that the pond was being cleaned out until after the maintenance was already completed. Letters to neighboring property owners stating the pond maintenance benefits and encouraging them to help pay the invoice should also be sent.

The solicitor should also send a letter to the street supervisor prohibiting him from doing any work on private property.

**Motion** - Councilwoman Elaine Hopkins made a motion for Solicitor Cole to:

1. write a letter to the pond owner explaining that the invoice to Gessner's Excavating cannot be paid by the borough and asking them to pay the invoice;
2. write a letter to the neighbors of that same property owner asking them to help the property owner pay the invoice; and
3. write a letter to the street department supervisor prohibiting him from doing any work on private property.

A 2<sup>nd</sup> to the motion was made by Councilwoman Lisa Decker. Vote was taken with all in favor and none opposed. Motion carried.

**NEW BERLIN MUNICIPAL AUTHORITY – Minutes** – There were no questions or discussion regarding the New Berlin Municipal Authority Minutes.

**SECRETARY/TREASURER REPORT - Balance – General Fund** - The secretary/treasurer reported the balance in the General Fund as \$107,386.03.

**DCNR Grant Workshop** – The secretary/treasurer stated she plans to go to a DCNR grant workshop on November 7th.

**SIGNING OF BILLS/PAYROLL – Motion to Pay Bills** – Councilwoman Betty Kratzer made a motion to pay the bills with any additions. Councilwoman Elaine Hopkins made a 2<sup>nd</sup> to the motion. Vote was taken with all in favor and none opposed. Motion carried.

**BILLS TO BE PAID FROM M&T GENERAL FUNDS ACCOUNT**

M&T Bank – September Checking Service Charge	25.00
M&T Bank – October School Payment	1,994.36
A-1 Lock & Key	8.60
Hometown Disposal, lp	64.50
New Berlin Fire Company, No. 1	3,703.73
On Fire Promotions	242.60
PP&L	267.78
AT&T	139.73
Hackenburg’s Garage	408.55

Kim Barton	35.00
Pennsylvania Correctional Industries	65.00
Richard's Portable Toilets	80.00
S.J. Eaton Plumbing & Heating	95.00
Wagner's Surveying	80.00
Curt Keister	315.46
Jacob Shipman	191.73
Leif Hassenplug	401.44
Lester O. Hummel	708.47
Michael H. Mattocks	114.74
Rebecca A. Witmer	1,654.91
Rodney E. Styers	104.95
William Stamm	64.31
Cardmember Service	212.54
Union County Commissioners	1.00
PA Department of Revenue	164.21
US Treasury	1,239.34
PP&L	911.43
Quill Corporation	91.65
Middleburg Pistol & Rifle Shooting	180.00
Martin's Small Engine Repair	3.95
LIVIC Civil	325.00
<b>TOTAL</b>	<b>13,894.98</b>
YSM, Inc.	750.00
Schlegel Excavating Inc.	7,437.60
<b>TOTAL</b>	<b>8,187.60</b>

**OLD BUSINESS – DCNR Grant Soft Opening** – The secretary/treasurer stated the Plum Street Park soft opening will likely be held November 5th. Confirmation will come via email to everyone along with a time.

**Contract with Schlegel Excavating** – Borough council agreed to extend the construction contract with Schlegel Excavating for the DCNR project construction due to the pavilion being backordered and the excessive rain this season.

**Motion** - Councilwoman Betty Kratzer made a motion to extend the construction contract agreement with Schlegel Excavating, Inc. Substantial completion date is November 1st with final completion by November 16th. Vice President Jared Busby made a 2nd to the motion. Vote was taken with all in favor and none opposed. Motion carried.

**Phase II of Plum Street Park** - The secretary/treasurer inquired if council would like to explore doing a Phase II of the Plum Street Park. Most times grants are a 50/50 match. Matching funds can be by way of certain other grants. The grant application will be due in April of 2019 and funding will not be until 2020. Council wished the secretary/treasurer to inquire of the consultant several possible Phase II projects and the approximate costs.

**Winter Maintenance** – President Julianne Finkbiner stated the finance committee discussed contacting Limestone Township regarding providing winter maintenance service for Briar Lane, Vista Heights, and the west end of Front Street, fee to be determined. The Borough had provided that service for a fee in the past but the contract has not been renewed for the past 3 or 4 years. Limestone Township was contacted to inquire if they would be interested in entering into a contract for those services again. The borough has not yet heard back from them. The finance committee is inquiring if council wishes to actively approach the township regarding providing that service again. Council was interested in pursuing Limestone Township for a winter maintenance agreement.

**NEW BUSINESS – Vice President Busby - Council Seat** – Vice-President Busby reported his wife took a new job in another state so his family will be moving. December 12th will be his last council meeting. Everyone present expressed their regrets about him needing to vacate his seat. Council will need to appoint someone to his seat within 30 days. If anyone is interested, a letter of interest is required to be on file at the office.

**President Finkbiner Surgery** – President Finkbiner reported that her recent surgery went well and she is recovering nicely. She expressed thanks for the get well basket.

**Former NB Elementary School Building** - Councilwoman Stamm inquired if anyone has given any thought about what to do with the former NB Elementary School building. Council did not have any discussion regarding the building use other than to say it is something they will start to consider. Councilwoman Stamm stated the plans were given to her nephew who has a structural engineering degree. He is looking at the plans for free.

**ADJOURNMENT – Motion** – Councilwoman Elaine Hopkins made a motion to adjourn the meeting. Councilwoman Lisa Decker made a 2nd to the motion. Vote was taken with all in favor and none opposed. Motion carried. Meeting adjourned.

Respectfully Submitted,

Rebecca A. Witmer,  
Secretary/Treasurer

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MAYOR