

NEW BERLIN BOROUGH COUNCIL REGULAR MEETING

A council meeting of the New Berlin Borough Council was held on March 11, 2020, at 7:00 pm at the New Berlin Borough Community Center located at 318 Vine Street, New Berlin, PA. Present were President Julianne Finkbiner, Councilwoman Barbara Stamm, Councilwoman Betty Kratzer Vice-President Lisa Decker, and Councilman Barry Kuhns. Wendy Cole, Solicitor; Mayor Bonnie Hamilton; and Rebecca Witmer, Secretary/Treasurer were also present. Street Department Supervisor Curt Keister; Councilwoman Lynda Frederick; Councilwoman Meghan Shambach; and Chief of Police L. Eric Hassenplug were absent from the meeting. Visitors present due to interest in the Second Amendment Sanctuary Ordinance were Dean Zimmerman, Butch Woolsey, Ron Henry, J.J. Sovic, Chad Kister, Austin Kister, Amber Koch, Kevin Sloan, Anne Sloan, Mike Schneck, and Jerry Johnson. Visitors from Moms that Demand Action were Mary Hegarty and Shari Jacobson. James Emery from the CKCOG was present to observe the meeting. New Berlin residents observing the meeting were David Farmer, Sally Farmer, Edward Pilko and Sharnel Pilko.

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

APPROVAL OF MEETING MINUTES – February 12, 2020 - Discussion was brought regarding the February 12, 2020 minutes. Vice-President Lisa Decker made a motion to approve the February 12, 2020 minutes. Councilman Barry Kuhns made a 2nd to the motion. A typo was corrected on page 8. Vote was taken to approve the minutes. Vote was taken with all in favor and none opposed. Motion carried.

VISITOR BUSINESS – Scott Henninger – Gun Owners of America – Second Amendment Sanctuary Ordinance - Scott Henninger, Gun Owners of America group, was present to inquire if council has taken any action to adopt a Second Amendment Sanctuary Ordinance. President Finkbiner stated council will be discussing any action regarding the matter later in the evening.

Shari Jacobson - Moms Demand Action – Second Amendment Sanctuary Ordinance – Shari Jacobson from Moms Demand Action stated she was present with Mary Hegarty to speak against adoption of the Second Amendment Sanctuary Ordinance. Reasons expressed were that

municipalities do not have the power to adopt laws superseding state and federal laws; if adopted it could bring costly lawsuits for which municipalities will need to use taxpayers hard earned money to litigate; it's a confusing ordinance that puts law enforcement officers and residents both in a precarious situation; and the United States has a Constitution that governs procedure and law and municipalities do not have the right to put the Constitution aside and do what they want.

Scott Henninger – Gun Owners of America – Second Amendment Sanctuary Ordinance – Scott Henninger stated additions to gun laws are not a new thing in Union County. In 1994, the Brady Bill came from the federal government which states had to adopt. That legislation stated that people who committed certain crimes were not permitted to have firearms. In the 1950's, the popular Crimes Code section to charge people with when breaking into a vehicle was under Robbery of a Railway Car so persons who broke into a vehicle in the 1950's were now not permitted to have firearms. When the confiscation orders came down to the PA State Police, they would not enforce that law because they knew it was wrong. They instead took it to the District Attorney and the Common Pleas Judge who agreed and those people were able to get their records expunged. Therefore, this ordinance will prevent punishment to people against an unconstitutional law. Further, if the PA State Police received unconstitutional confiscation orders for New Berlin, the PA State Police will not enforce those orders due to New Berlin having an ordinance. Case law cited was D.C. v. Heller which also referred to U.S. v. Miller.

COMMITTEE REPORTS – Community Center Committee – Penn State Horticulture – An email was received and distributed to council with questions from the Penn State horticulture class regarding the New Berlin Community Center landscaping. The email inquired if the landscaping was to include both sides of the sidewalk leading up to the community center; if there should be other elements besides plantings, such as fence or curbing along the parking edge; and what council was looking for in a design. The email also explained that the students would provide a design and instructions and possibly resources for implementation but would not provide plants or free labor for the project.

Council discussed and agreed that they only wished to replace the roses at the fence line and possibly a few plants; there was not a desire for a large project to be implemented; and the

landscaping needs to remain simple for maintenance purposes. Council had originally agreed to inquire more about the horticulture class helping because it was thought that maybe they would donate plants or labor for the project but the email states that they do not provide either of those for free. The other concern brought to the discussion was that colleges were starting to close due to the coronavirus and the students may soon not be attending school or classes. The committee members present stated they felt they could proceed on their own with choosing plantings for the fence line and any other plants that need replaced.

After discussion it was stated that council would like to pass on the Penn State Horticulture Class designing something for the space so they could be freed up for another project.

New Berlin Fire Company Training on Abandoned Property – The final Writ of Possession for 409-411 Front Street has not yet been received. However, the insurance company sent an email outlining information regarding insurance coverage for the entrapment training the fire company requested be held inside the structure at that location. That email was sent to council and the solicitor. The email stated as follows:

As discussed, the Borough automatically has liability coverage for any property that they have acquired. We do not need to schedule this location. There is no property coverage for the building itself.

New Berlin Fire Co. is a Named Additional Member on the Borough's policy and has liability and will also be covered for Workers' Compensation coverage as training is part of their duties.

It is recommended that you obtain a Certificate of Insurance from the Bucks County College that is doing the inspection/certifications.

If a neighboring Fire Company joins in this training, the Borough should obtain a Certificate of Insurance from that Fire Company showing both General Liability and also its Workers' Compensation coverage. You should ask that they add both the Borough and the New Berlin Fire Company as Additional Insured's on their liability with respect to the training exercise. This should be shown on the Certificate of Insurance.

It may also be beneficial to have the neighboring fire company sign a hold harmless agreement. I am attaching a sample that you could amend to fit your specific need. You may want to add "including injuries that anyone sustains". Please have this reviewed and approved by your Solicitor before using."

The secretary/treasurer modified the hold harmless agreement as recommended by the insurance company and sent it to Solicitor Cole for review, comment, and/or revision. The

secretary/treasurer informed Brandon Resseguie of the insurance company's requirements regarding the training. Once the final Writ of Possession is received and the hold harmless agreement is finalized and approved by the solicitor, the secretary/treasurer will forward the fire company the email from the insurance company, the final hold harmless agreement, and any other information needed.

Motion – Fire Company Training on Abandoned Front Street Property – Vice-President Lisa Decker made a motion to allow the fire company to do the training provided all insurance company requirements are met and the Writ of Possession for 409-411 Front Street is obtained. Councilwoman Betty Kratzer made a 2nd to the motion. Vote was taken with all in favor and none opposed. Motion carried.

Activities Committee - Holiday Angels – The Borough received a letter from the New Berlin Activities Committee stating they were no longer in the position to pay for costs associated with hanging the Christmas Angels during the holiday season and they are handing over those responsibilities to the Borough. Council discussed the costs and other details associated with hanging the angels each year.

Motion – Christmas Angel Responsibilities – Councilman Barry Kuhns made a motion to take over responsibilities and costs associated with hanging the Christmas Angels during the holiday season. Vice-President Lisa Decker made a 2nd to the motion. Vote was taken with all in favor and none opposed. Motion carried.

Activities Committee Event Dates – The activities committee representatives were reminded that the Borough still needs a written list of 2020 event dates for council approval for insurance purposes.

POLICE REPORT – Council reviewed the February Police Report. No questions were asked.

Police Patrol Officer Bustin – Probation – The secretary/treasurer stated that Chief Hassenplug is recommending Officer Bustin be moved from probationary police patrol officer employment status to regular police patrol officer status. The change in status will come with a pay raise.

Motion – Officer Bustin Probation – Councilwoman Barbara Stamm made a motion to change the status of Officer Bustin's employment from probationary police patrol officer to regular police patrol officer and give the standard raise accompanying the change. Vice-President Lisa Decker made a 2nd to the motion. Vote was taken with all in favor and none opposed. Motion carried.

Police Presence – Mayor Hamilton stated that while the police have always been enforcing ordinances and taking care of criminal activity in town, the more visible presence has been noted not only by her but by others in town as well.

STREET SUPERVISOR'S REPORT – Borough Building Construction - The street department supervisor did not yet receive any quotes for work to be done to the partition and foyer area inside the Borough Office but will do so soon.

Recreation Association Dumpster – As discussed last year, the street department supervisor will speak with Cub Snook regarding the recreation association's disposal needs during ball season. If the recreation association's disposal needs are becoming too great to continue using the borough's dumpster, they will discuss other options which may include the recreation association renting their own during the peak of the season.

Spring Brush and Limb Pick-Up – Spring Brush and Limb Pick-Up will be held on April 25th.

Mountain Gate – There was discussion about making sure the mountain gate was opened every Saturday and Wednesday.

Salt Contract – The secretary/treasurer reminded the street department supervisor that the salt contract was soon due.

MAYOR'S REPORT – Mayor Hamilton had nothing to report other than what was stated regarding the police presence earlier in the meeting.

SOLICITORS REPORT – Writ of Possession – 407-411 Front Street – Solicitor Cole stated she petitioned the court for the Writ of Possession for 407-411 Front Street and she hopes to receive the final order within the next few days.

608 Spangler Street - Solicitor Cole stated an auctioneer will need to be hired to sell the Spangler Street property.

NEW BERLIN MUNICIPAL AUTHORITY - Minutes – There were no questions regarding the NBMA minutes.

SECRETARY/TREASURER REPORT - Balance – General Fund - Rebecca Witmer reported the balance in the General Fund as \$66,293.26.

General Fund Audit – The secretary/treasurer stated the 2019 General Fund audit was completed with no findings. The required information was published in the newspaper and sent to DCED.

Liquid Fuels Payment – A liquid fuels allocation in the amount of \$32,869.50 was received on February 14, 2020.

Borough Building Copier – The new copier for the borough building was leased as was agreed upon within the budget. The old copier is borough property and is in fair condition. Council should determine what to do with the old copier as far as selling or donating it.

READING AND SIGNING OF BILLS/PAYROLL – Councilwoman Barbara Stamm made a motion to pay the bills with any additions. Councilwoman Betty Kratzer made a 2nd 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 – February Checking Service Charge	25.00
AT&T Mobility	53.50
Diane Lengle	120.00
H.A. Thomson Company	15,868.00
Martin’s Small Engine Repair	159.55
Matthew Hamilton	120.00
Michael Palermo	120.00
PPL	32.02
Andrew K. Bustin	370.53
Curt Keister	352.63
Jacob Shipman	122.04
Leif E. Hassenplug	326.78
Michael H Mattocks	651.06
Rebecca A. Witmer	1,973.02
Rodney E. Styers	177.37
William Stamm	621.05
Cardmember Service	410.26
Coles Hardware	192.49
Ervin Blank Associates, Inc.	125.00
Kim Barton	35.00
The Daily Item	243.75
Kim Barton	105.00
PA Department of Revenue	171.18
US Treasury	1,252.06
Cole & Varano	1,308.75
Family Practice Center	150.00

TOTAL \$15,084.04

OLD BUSINESS – 320-322 Front Street – Fire Escrow - The secretary/treasurer reported an update on the fire escrow insurance information regarding 320-322 Front Street. A brief reminder of the history was given stating that there was a structure fire at that location on July 14, 2019; the secretary/treasurer had been working with the insurance company regarding collecting fire escrow funds but the property owner then hired a private adjuster; and originally there was doubt as to whether or not the borough would be able to collect funds to ensure the property was cleaned up and brought up to Building Code.

As per a letter from Centre County Mutual Fire Insurance Co, P of H, dated February 25, 2020, a check was disbursed to the borough in the amount of \$19,387.30. The funds will be placed in the fire escrow account until the property is cleaned up and passes a Building Code inspection. The property is still almost in the same condition since the fire. Even since reporting it to CKCOG for violations, very few improvements have been made.

Recycling Center Security Camera Grant Quote – Council reviewed a quote from A-1 Lock and Key for an updated security system, cameras, wall mounted monitor, and installation in the amount of \$2,974.00. If council agrees, the quote will be submitted to Union County to be used to apply for a New Berlin Recycling Center grant. If awarded, the grant will reimburse New Berlin for 90% of the cost for the equipment and installation services. The award for the grant should be announced at the end of this year with funds being reimbursed in 2021.

Motion – Recycling Center Grant – Vice-President Lisa Decker made a motion to accept the quote from A-1 Lock and Key and submit the quote with application for a recycling center grant in the same amount. Councilwoman Betty Kratzer made a 2nd to the motion. Vote was taken with all in favor and none opposed. Motion carried.

Second Amendment Sanctuary Ordinance – President Finkbiner stated that all members of council received a proposed Second Amendment Sanctuary Ordinance and other related information via email. Solicitor Cole stated she had not yet had a chance to review the information. Solicitor Cole inquired of council what information they wanted her to give to them after review. Council stated they want a legal perspective about the ordinance and a recommendation. Council also discussed hearing more from New Berlin residents regarding the proposed ordinance. Council discussed gaining the opinion of constituents regarding the proposed ordinance either via survey, public meeting, or both. A detailed, unbiased explanation of the proposed ordinance should be compiled.

After discussion it was decided that both a survey and a town meeting should be held regarding the proposed ordinance. Solicitor Cole, Vice-President Lisa Decker, and Mayor Bonnie Hamilton were appointed to write a detailed, unbiased explanation to be used for a town survey and to be read at a town meeting. The only question on the survey after the explanation will be asking constituents

if they are for or against council passing the ordinance. The explanation should be ready for council to review before the next meeting so council can proceed with a plan to distribute the survey and decide and announce the town meeting date.

Scott Henninger, Gun Owners of America Group, commented that the group did not have a time table as to when they expected action from municipalities. He also stated that Buffalo Township had its Chief of Police, a game commission representative, and the Union County Sheriff hold an informative meeting regarding gun laws and how it would affect current gun laws. The meeting greatly benefited the residents and was very helpful. Mr. Henninger also suggested providing a copy of the proposed ordinance with the town survey and have them both available at the town meeting.

Animal Ordinance – Mayor Hamilton stated council received a draft copy of the proposed animal ordinance. After sending it, Mayor Hamilton stated she realized there are still a few areas that need revised. One of the main sections needing revision is the area of the ordinance addressing lost and stray dogs. Mayor Hamilton stated that she and Vice-President Decker should probably have another person working on the ordinance with them since former councilman Jared Busby has since moved out of the area. President Finkbiner appointed Councilperson Barry Kuhns to help work on the ordinance. Mayor Hamilton will set up a meeting or start a discussion via email.

NEW BUSINESS – Grant Resolution and Matching Funds Letter – Council previously approved making application to DCNR for a grant to hire a consultant to perform a feasibility study as to the future use of the former elementary school building. Council also previously approved the 50% match for the grant project. A matching funds commitment letter and a resolution are needed as part of the DCNR grant application. Council was given a copy of the proposed resolution for review.

Motion – DCNR Grant Resolution – Vice-President Lisa Decker made a motion to pass the DCNR resolution grant required as part of the application for a feasibility study on the former elementary school building at Plum Street Park. Councilman Barry Kuhns made a 2nd to the motion. Vote was taken with all in favor and none opposed. Motion carried.

Motion – DCNR Matching Funds – Vice-President Lisa Decker made a motion to permit the secretary/treasurer to sign and send a letter to DCNR committing 50% of the project costs. Councilwoman Betty Kratzer made a 2nd to the motion. Vote was taken with all in favor and none opposed. Motion carried.

Abandoned Property Registration Ordinance – Central Keystone COG is recommending the borough pass an abandoned property registration ordinance. The information was provided to council via email before the meeting. The ordinance will require property owners to register abandoned properties located in the borough. Councilman Kuhns stated he does not agree with passing such an ordinance due to it taking more rights away from property owners. Council tabled the discussion until the next meeting.

Statement of Financial Interest – A reminder was given to complete and submit the yearly statement of financial interest to the borough office as required.

ADJOURNMENT – Motion – Councilwoman Betty Kratzer made a motion to adjourn. Vice-President Lisa Decker made a 2nd to the motion. Vote was taken with all in favor. Motion carried. Meeting adjourned.

Respectfully Submitted,

Rebecca A. Witmer,
Secretary/Treasurer

MAYOR