

**NEW BERLIN BOROUGH COUNCIL  
REGULAR COUNCIL MEETING**

A regular meeting of the New Berlin Borough Council was held on September 12, 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, and Councilwoman Barbara Stamm. Rebecca Witmer, Secretary/Treasurer; Bonnie Hamilton, Mayor; and Lester Hummel, Street Department Supervisor were also present. Councilwoman Elaine Hopkins, Councilwoman Lynda Frederick, Solicitor Wendy Cole, and Chief of Police L. Eric Hassenplug were absent from the meeting. New Berlin resident Cheryl Hoover was present as well as Jim Emery, Code Enforcement Supervisor at CKCOG and Rebecca Kilps Office, Assistant at CKCOG were present as visitors.

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

**APPROVAL OF MINUTES – August 8, 2018 Council Meeting** – Vice-President Jared Busby made a motion to approve the minutes. Councilwoman Lisa Decker made a 2<sup>nd</sup> to the motion. Vote was taken with all in favor and none opposed. Motion carried.

**VISITOR BUSINESS – Burning Ordinance - Cheryl Hoover** - Cheryl Hoover was present to inquire if she would be notified should Council decide to address the burning ordinance. President Julianne Finkbiner stated council does not have plans to address the ordinance at the current meeting but Ms. Hoover would be notified when they plan to do so.

**CKCOG** - Jim Emery and Rebecca Kilps, CKCOG, were present to discuss the property at 608 Spangler Street as well as a new Property Maintenance Code developed by the CKCOG. The new Code includes a fire safety and rental program.

**608 Spangler Street** – A recent inspection of the inside of the structure at 608 Spangler Street was made with permission from the owner. The inside has severe mold, there’s a hole in the roof, and the basement is still flooded with water. Pictures were taken at the time of the inspection and

distributed via email to the borough office then distributed from there to council. It is CKCOG's recommendation to condemn the property. The homeowner was notified of the recommendation. Condemning a property does not necessarily mean the living structure on the property needs to be demolished but the mold does need to be remediated. The owner was seeking funds to remediate the mold inside the structure but CKCOG has not yet heard back from the owner regarding the status.

Should the borough accept and agree with the CKCOG's recommendation and the owner does not remediate the mold and other issues with the property, the borough should be prepared to either remediate the mold or demolish the structure. The CKCOG would front the money to and administer the project for the borough. The borough should then be able to recoup its funds by taking the property then and selling it. At this point, the property is likely worth more money without the structure.

When demolishing a property, it is the CKCOG's recommendation to tear down the structure about 2 courses below grade, crack the bottom of the basement floor to allow for water drainage, leave the basement walls up, and fill the basement with clean fill.

The CKCOG is requesting permission to meet with the Borough Solicitor to discuss a course of action regarding condemnation of the property and the process of doing so. At this point, it will be cheaper to demolish the structure than to remediate the mold. The estimated cost if the demolition is approximately ten thousand dollars (\$10,000.00).

Council would like the Borough Secretary/Treasurer to be included in the meeting with the CKCOG and the Borough Solicitor.

The other option the borough has at this point is to have the CKCOG to file paperwork making the property owner of 608 Spangler Street appear in court. The petition will ask the judge to order the property owner to remove the structure. Petitioning the court does not mean the judge will find in favor of the CKCOG nor does it guarantee that the owner will comply with the judge's order if it is in favor of the CKCOG.

**Motion** – Vice-President Jared Busby made a motion to condemn the property at 608 Spangler Street and for CKCOG to meet with the Borough Solicitor and Secretary/Treasurer regarding the condemnation procedure. Councilwoman Lisa Decker made a 2<sup>nd</sup> to the motion. Councilwoman Barbara Stamm inquired if the property owner could get money to help with the cost of remediating the property. CKCOG explained that the property owner has been seeking help but the CKCOG does not yet know the results. The borough may be able to get a SedaCOG grant for slum and blight properties. Councilwoman Barbara Stamm inquired what time frame the borough is looking at as far as removing the structure. CKCOG thought the process would take until spring. Vote was taken with all in favor and none opposed. Motion Carried.

**CKCOG Property Maintenance Code** – In 2017, borough adopted the most recent copy of the International Property Maintenance Code. Since then, the CKCOG came up with its own version of the Code. This Code makes it easier for enforcement and allows it to be more personalized for each municipality.

There are two sections of the Code that provide for more than just enforcing a municipality's ordinances. One is the rental property section and one is the fire safety section. The rental property section of the Code provides for inspection of the rentals and how the rental program is administered. The fire safety program section of the Code provides for fire safety inspections of commercial and rental properties.

Each municipality can choose which sections of the Code to adopt but they must adopt sections 1 through 6, verbatim and without exception. The other sections may be adopted as municipalities choose. For instance, there is a section in the Code that deals with regulation of trees. If New Berlin does not wish to regulate trees within the borough, they do not need to adopt that section. There is also a section regarding open burning. There are several municipalities throughout the CKCOG's service area that allow for open burning but each one has its own rules. The section dealing with burning does not provide rules for open burning, it merely allows the COG to enforce the municipality's current ordinance. There are other sections of the Code that deal with various issues and ordinances within each municipality. The Code does not provide for animal control

issues.

**Fire Safety Program** - The fire safety section requires carbon monoxide detectors in public and private dwellings. Detectors in the private dwellings will only be administered if asked. Detectors and other safety equipment such as windows and exhaust fans, etc. in public dwellings will be inspected approximately every 5 years.

Adopting the fire safety portion of the Code will not negatively affect fire company grants or funding. The CKCOG would explain the fire safety section to the fire company and the borough would consult the fire company before agreeing to adopt that section of the Code.

**Rental Property Program** - The CKCOG's rental property program would dictate how often rental units are inspected and what it is they are inspecting. The program would not provide for tenant registration, nuisance tenants, and like issues.

**COMMITTEE REPORTS – Activities Committee – New Berlin Day** – New Berlin Day went well, without incident.

**Community Yard Sales** – The community yard sales will be held Saturday, October 6<sup>th</sup>.

**Grand Opening** – The Activities Committee will start to talk about plans for a grand opening celebration at Plum Street Park.

**Letters from Johnson Family** – Two letters were received from the Johnson Family, residents of Plum Street. The first letter came before New Berlin Day and asked for a certain number of parking spaces. The second letter came after New Berlin Day and explained that their reserved parking was removed by 8:00 am. and one of their neighbor's spaces was removed by 10:45 am. The Street Department Supervisor stated that he is sure no one from the activities committee removed the signs. The activities committee will discuss those letters at their meeting and the Secretary/Treasurer will distribute copies to council as well. Council will discuss the letters at the next meeting once they have a chance to review them and the activities committee has a chance to

discuss them as well.

**Finance Committee** – The finance committee will have their first meeting next week.

Councilwoman Stamm inquired if the Police Chief turned in his budget requests due September 1<sup>st</sup>.

The Secretary/Treasurer stated they were received on time. The Mayor stated she would like to add some things to the budget request but will speak about it under the police report.

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

**Mayor and Chief Meeting** – The Mayor and Police Chief met to discuss several matters as reported below.

**Burning** - The Mayor requested that when the police are on duty, that they patrol for burning and address any illegal burning issues.

**Hours and Coverage** – Hours and coverage were discussed since all of the monthly hours allotted for the police department have not been worked in quite awhile.

The Chief would like permission to hire another police officer.

One of the hurdles to finding part-time police officers in New Berlin is the hourly pay rate. New Berlin has one of the lowest pay rates for part-time officers in the area. The Mayor is currently working with a director at her place of employment to work out a going rate and come up with a figure for New Berlin.

The officers currently working for New Berlin have full-time jobs elsewhere and have been working a significant number of overtime hours at those jobs due to the overall lack of police officers in the area as a whole.

The Mayor will submit information for the budget but is asking the finance committee to seriously look at increasing the rate of pay for the officers. As opposed to raising taxes or cutting another

department to implement a pay raise for the officers, it is possible to lower the hours worked to compensate especially since they are already not working the allotted hours. President Finkbiner stated the finance committee typically looks at pay raises last so there is plenty of time to resubmit budget requests for the officers' pay rate.

**Police Coverage Times** - The Mayor also requested the police do more hours on nights and weekends since those coverage hours are lacking.

There was concern from a council member about cutting the police department hours. The Secretary/Treasurer stated it seems there are several different people involved with the police committee in some way who are proposing different options. Exploring different options is good. Budget requests are meant to supply the finance committee with solid information already discussed and determined reasonable and feasible by the people responsible for that department. When it's done that way, it gives the finance committee good direction which then in turn avoids large chunks of the budget being kicked back to the finance committee who then need to take more time and have more meetings to find a way to balance it.

Ultimately, the budget needs to be approved for public inspection and advertisement at the November meeting and adopted by the December meeting. President Finkbiner stated that due to the varying thoughts on the budget in this area, the police committee and Mayor should meet with the Chief soon. That way the Chief can submit a new request. The Secretary/Treasurer inquired if October 1<sup>st</sup> was enough time for the police committee, Mayor, and The Chief to meet and submit an amended budget request. It was confirmed that someone will have a new police budget request to the Secretary/Treasurer by October 1<sup>st</sup>.

**STREET SUPERVISOR REPORT – New Hire** – The Street Department Supervisor stated that Rawlin Swanger was now a street department employee with the borough.

**Motion** – Vice-President Jared Busby made a motion to hire Rawlin Swanger as a street department laborer at \$9.25 per hour. Councilwoman Barbara Stamm made a 2<sup>nd</sup> to the motion with all in favor and none opposed. Motion carried.

**Walnut Street Wall** – The Street Department Supervisor reported that the wall on Tan Run at Walnut Street is leaning and is in need of attention before something serious happens. A new tiling needs to be put in at that location. The pipe should be about 50 feet long and about 4 feet wide. The wall is stone, was put in back in the 1930's, and is on the east side between High and Liberty Streets.

**Motion** – Vice-President Busby made a motion to hire Livic Engineering to look at the area and propose a solution. Councilwoman Lisa Decker made a 2<sup>nd</sup> to the motion. Vote was taken with all in favor and none opposed. Motion carried.

**Street Department Truck – Chevy** – The Street Department Supervisor reported that the old Chevy truck used by the street department has rusted out floorboards. Two estimates for repair were received. The lowest was from Willy's Auto Body for \$1,600.00.

**Motion** - Councilwoman Barbara Stamm made a motion to contract with Willy's Auto Body for the repair for a cost of no more than \$1,601.00. Councilwoman Betty Kratzer made a 2<sup>nd</sup> to the motion. Vote was taken with all in favor and none opposed. Motion carried.

**Green Street Pond** - The Street Department Supervisor stated that there is a place on Green Street where stones and other sediment from the Spangler development wash. He contracted with Gessner's Excavating to get it cleaned out. He understands that the Secretary/Treasurer explained to him that he could not have it cleaned out at the borough's expense until council discussed the issue again because it was determined in 2010 that it is private property and the borough does not have an easement nor is it in the right-of-way. However, he feels it is nonsense so he had it cleaned out. The Secretary/Treasurer stated she sent an email out to council explaining what the Street Department Supervisor wished to have done and attached all the past discussion regarding the same. At that time, Solicitor Cole said it needed to be discussed at a meeting of council before action was taken. The Street Department Supervisor stated that the stones and sediment from the development go into the person's yard. A council member stated she has the same situation since she lives at the bottom of a development but the borough does not clean out her yard. The Street

Department Supervisor stated it was not to the same degree. President Finkbiner inquired if the Street Department Supervisor understood that it was private property. The Street Department Supervisor stated he did understand that but he doesn't think it should be that way and it should have never been private property. President Finkbiner stated that, even so, it is private property and when people buy a property, they buy the issues that go along with it. When the same issue was discussed in 2010, it was determined that the developer had an easement. It was also determined by both an engineer and the solicitor that it was private property and the borough could not do anything on the property unless it wished to seek an easement. The Street Department Supervisor stated the borough never got an easement for the property but they should have. Further, it's not a big deal because the bill is only \$100.00. The Street Department Supervisor stated he isn't going to beat the issue around and around. If council wants him to pay it, he will. If it's not taken care of, the water backs up into people's basements. So, it really shouldn't be a big deal that he did it.

Vice-President Busby inquired if liability should someone get hurt or something goes wrong was the only reason for the borough not being able to do something on private property. The Secretary/Treasurer stated the Solicitor would need to answer the question in detail and explain further but the other issues the Solicitor mentioned was misuse of borough funds and fraud with regards to expense accounts. The reason is because taxpayer money cannot be used to perform work on private property. That being said, should borough council decide to pay the bill she, as the Secretary/Treasurer, will ask for a separate motion for the bill and ask that the borough council release her from any fiduciary responsibility with regards to the funds in that same motion. The Secretary/Treasurer wanted to make sure council understood that she will not take on any fiduciary responsibility or other culpability with regards to this bill and/or payment.

Inquiry was made as to whether or not the borough could remedy the situation in the future without issue if it obtained an easement to the property. The Secretary/Treasurer stated that was her understanding.

**Motion** - Councilwoman Stamm made a motion for the borough to talk to the solicitor about obtaining an easement to the property in question so the borough can take care of this issue for



the property owner in the future so no more homes need to be condemned due to mold or other issues. Motion died for lack of a second.

Council discussed several areas in the borough where property owners needed to remedy storm water damage on their own with their own resources. It was stated that weather happens and sometimes people's stones are washed away or flooding happens. When it does, the borough does not go fix those issues for everyone, the property owners fix those issues for themselves. It was also discussed that the drainage pond was most likely necessary and required as part of the development but that doesn't make it borough's responsibility to maintain. Since the borough has now done this on private property, it opens up an issue of what it should do for others who have private property issues. The borough council has discussed and prohibited this type of action various times but in different circumstances such as using borough equipment to chip trees for people, taking peoples brush to the dump for them, etc. The Street Department Supervisor stated he did it to prevent the pipe from getting clogged and he wouldn't be around for long so whatever council decides is fine with him. Council discussed doing things for taxpaying citizens and the difference between doing something for taxpaying citizens on private property when those people purchased their property with the understanding that they would be taking the responsibility to maintain that property. The borough helping people within the limits allowed to it and the borough breaking rules to help people are two different things. The Street Department Supervisor stated there really isn't anything to debate further because it's done and in the past. He offered to pay the bill if council has a problem doing so. It was stated that one of the main issues is that the Street Department Supervisor was told that council wanted to be able to review and discuss the matter before any action was taken. The Secretary/Treasurer stated she would place the easement on the agenda for discussion at the next meeting when the solicitor is present.

**MAYOR'S REPORT** – Mayor Hamilton had nothing to report besides what was reported under the police report.

**SOLICITOR'S REPORT** – Solicitor Cole was not present. The item on the agenda for discussion under her report was placed there to enter a borough property matter into the record for future reference, if needed. The Secretary/Treasurer and Union County GIS worked to finalize and

properly account for a small triangular shaped piece of property located on Hidden Hollow Road in Limestone Township which was deeded to the borough in the 1930s. The deed is on file at the borough office. The property was deeded to the borough as a future well site but was never utilized as such. Now that the property issue is straightened out and the property is properly accounted for, the Secretary/Treasurer applied for tax exemption which was granted.

**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 \$111,650.76.

**Budget Report** – The Secretary/Treasurer inquired if there were any questions regarding the budget report distributed last month. No questions were asked.

**Community Center Application** - The Secretary/Treasurer requested a change to the community center agreement form. The change incorporates a place for the renter’s email address.

**Motion** - Vice President Jared Busby made a motion to change the community center agreement form as noted. Councilwoman Lisa Decker made a 2nd to the motion. Vote was taken with all in favor and none opposed. Motion carried.

**SIGNING OF BILLS/PAYROLL – Motion to Pay Bills** – Vice-President Jared Busby made a motion to pay the bills with any additions. Councilwoman Lisa Decker made a 2nd to the motion. Vote was taken with all in favor and none opposed. Motion carried.

**Gessner's Excavating Invoice and Check** - Vice-President Jared Busby made a motion to pay the bill to Gessner’s Excavating and understands that the action could be considered misuse of public funds, and/or fraud with regards to expense accounts and releases the Secretary/Treasurer from any fiduciary responsibility for mismanagement, misappropriation, or otherwise wrongful or unlawful use for the expenditure of public funds on private property. Councilwoman Betty Kratzer

inquired why the language would be attached to paying Gessner's invoice. Councilwoman Barbara Stamm stated in doing so council is declaring that they understand that council money shouldn't be spent for that purpose but is paying the bill anyway. However, Councilwoman Stamm does not consider it a misuse of funds. The Secretary/Treasurer stated the language releases her from liability with regards to the invoice due to council directing her to pay it regardless of the circumstances. Further, the reality is that what matters is what the law says about allowable use of public funds and what the government, police, auditors, State Department, and taxpayers say is misuse of public funds. Councilwoman Betty Kratzer made a 2<sup>nd</sup> to the motion. Vote was taken with all in favor, none opposed, and Councilwoman Lisa Decker abstaining. Motion carried.

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

M&T Bank – August Checking Service Charge	25.00
M&T Bank – September School Payment	1,994.36
B.S.& B. Repair	95.50
Hometown Disposal	57.70
PP&L	258.04
Windstream Buffalo Valley, Inc.	255.57
PA Department of Revenue	188.43
US Treasury	1,403.10
Phillips Office Solutions	113.00
Union County Commissioners	1.00
Union County Treasurer	25.00
US Treasury	1,397.68
Curt Keister	402.04
Jackson Stroup	228.82
Jacob Shipman	195.03
Leif E. Hassenplug	414.94
Lester O. Hummel	1,038.12
Michael Mattocks	376.08
Rawlin Swanger	6.12
Rebecca A. Witmer	1,417.04
Rodney E. Styers	164.49
PA Department of Revenue	184.15
AT&T Mobility	134.47
Cardmember Service	286.88
Ebright's Garage & Auto Sales	36.00
H.A. Thomson Company	200.00
HRI, Inc.	240.00
Kathy A. Hummel Diehl	75.00
Kim Barton	35.00

PP&L	907.91
Quill Corporation	125.45
Richard’s Portable Toilets	160.00
Idding’s Quarry	90.30
Windstream Buffalo Valley	255.59
TOTAL	\$12,787.81

**OLD BUSINESS – DCNR Grant Soft Opening** – The Secretary/Treasurer stated she and DCNR are looking at possible dates for a soft opening of the Plum Street Park. The soft opening should wait until after the pavilion is erected. DCNR will be in attendance and several others who wrote letters of support for the project should be invited as well. The Secretary/Treasurer asked for permission to get a few invitations printed for the event. It was decided that she should make her own invitations and print them on bordered paper instead.

**CDBG – Funds for Liberty Street Bridge** – The borough has been chosen to receive \$160,000.00 in Community Development Block Grant funds for the Liberty Street Bridge Project. The decision is not final nor official until after the public hearing in September.

**NBES School Plans** – Councilwoman Barbara Stamm inquired if she could give copies of the New Berlin Elementary School blueprints to a friend is a structural engineer and who can consult regarding the structure of the building. Council approved the cost of making two (2) copies of the New Berlin Elementary School blueprints.

**NEW BUSINESS – Trick-or-Treat – Motion** –The date and time for New Berlin Trick-or-Treat night was established as being October 31<sup>st</sup> from 6pm to 9pm.

Sun Area Technical Institute’s Police Science class will help with town patrol during trick-or-treat night should the school agree and the appropriate waivers are signed. A pizza party will be held for the students who help with the event. The Secretary/Treasurer explained the process to The Mayor.

**Autumn Brush Pickup** – Autumn Brush Pickup was established for October 13<sup>th</sup> since that is when the Street Department Supervisor will have enough help from the other street department workers.

**Flyers** – Councilwoman Barbara Stamm made a motion to distribute town flyers for the autumn events. 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.

**ADJOURNMENT – Motion** – Vice-President Jared Busby made a motion to adjourn the meeting. Councilwoman Lisa Decker made a 2<sup>nd</sup> 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