

**NEW BERLIN BOROUGH COUNCIL
REGULAR COUNCIL MEETING**

A regular meeting of the New Berlin Borough Council was held on September 11, 2019, at 7:00 pm at the New Berlin Borough Community Center located at 318 Vine Street, New Berlin, PA. Present were President Julianne Finkbiner, President Pro-Tem Betty Kratzer, Councilwoman Barbara Stamm, Vice-President Elaine Hopkins, and Councilwoman Meghan Shambach. Wendy Cole, Solicitor; Curt Keister, Street Department Supervisor; and Rebecca Witmer, Secretary/Treasurer were also present. Brett Runkle, David Farmer, Sally Farmer, John Showers, and Nancy Showers, all residents and part of the New Berlin Citizen’s Group, were present to speak at the meeting regarding the burning ordinance. Cub Snook was present as a member of the New Berlin Recreation Association. Barry Kuhns, resident, was present to observe the meeting. Councilwoman Lisa Decker, Councilwoman Lynda Frederick , Mayor Bonnie Hamilton, and Chief of Police L. Eric Hassenplug were absent from the meeting.

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

APPROVAL OF MINUTES – August 14, 2019 - Discussion was brought regarding the August 14, 2019 minutes. Vice-President Elaine Hopkins made a motion to approve the minutes. Councilwoman Barbara Stamm made a 2nd to the motion. A typo was corrected. Vote was taken with all in favor and none opposed. Motion carried.

BID AWARD – Engineer Services Liberty Street Bridge – Sealed engineer proposals for the Liberty Street Bridge Project were opened August 28, 2019 by the Borough Secretary at the Borough Office, as advertised. The bid opening was witnessed by Mitzi Gallagher from SEDA-COG.

Bid results were read aloud in the order they were opened on August 28th as follows:

Firm:	Design	Supervision	Lump Sum	Additional Meetings
MKA Consulting	\$60,700	\$4,400	\$65,100	\$350
PCI	\$23,700	\$4,525	\$28,225	\$200
Navarro & Wright	\$75,500	\$11,600	\$87,100	\$750
Livic Civil	\$14,000	\$3,000	\$17,000	\$250

Council discussed the bids, SedaCOG matrix and scoring, and the concerns noted in SedaCOG's report.

Motion – Councilwoman Meghan Shambach made a motion to award engineering services for the Liberty Street Bridge to Livic Civil. Vice-President Elaine Hopkins made a 2nd to the motion. Vote was taken with all in favor and none opposed. Motion carried.

VISITOR BUSINESS – David Farmer – Citizen's Group – David Farmer read the following statement from the New Berlin Citizen's Group.

"We are here as a follow-up to the presentation we made at the August Council meeting, and I was asked to speak on behalf of the group.

We have some specific questions, but first I want to say a bit about our group. We have been talking for approximately 2 months and meet every week or two. There is nothing secret about our group and if anyone is interested in joining us, we welcome them. In particular, we want to let you know that we do not have a hidden agenda.

The message from our group is that we want the Borough to enforce the existing burning ordinances. We are not here to advocate for banning burning.

I know some of you may not believe that -- you think our goal is to ban all burning. But that is not true.

What is true is that we represent a mix of residents with a variety of perspectives and concerns. You heard from several of us last month. And while some individuals would be happy to see a ban on burning, that is not the wish of the group, and that is not why we are here.

It has been through considerable discussion, and a willingness to compromise, that we were led to the unanimous decision that what we want, as a group, is the enforcement of the existing ordinances.

These types of discussions take time. It took us at least 3 meetings of about an hour each before reaching a consensus that enforcing the existing ordinances was our goal. Time like that is not available during a Borough Council meeting, which is why we have been meeting separately and why we would like more people to join the conversation.

*Before moving on to our questions, I want to point out something important that **everyone** in the room will agree on: this is an issue of personal freedom. That is the main issue: personal freedom.*

There are TWO particular freedoms at stake. The obvious one is that people should be free to do activities that are legally permitted. Burning within the guidelines of the law is legal, so people should be allowed to do it. The other, and equally important, freedom is: People should be free to enjoy their own porch or their own back yard, without being chased inside by toxic smells. That freedom should also not be infringed.

We want a solution that respects both of these freedoms. And we believe that enforcing the existing laws is the best way to respect both freedoms.

Now for our questions. Last month we delivered a letter that contained our first 2 questions.

The first was: What plans does the Borough have for effectively enforcing the existing ordinances?

We were wondering if you have taken any steps toward answering that question?"

Council stated that the attorney sent an answer to the group's questions via email sometime last week. The group did not recall receiving the email. The Secretary/Treasurer stated she would send the group a copy of the letter they should have received.

David Farmer continued reading the group statement as follows: *"Last month we mentioned the possibility of hiring someone whose specific job was code enforcement. Are you taking any steps to explore that option?"*

Vice- President Elaine Hopkins stated that the police committee is meeting on Wednesday to discuss some options.

David Farmer continued with the group statement as follows: *"As far as we know, so far only one building has been destroyed by illegal burning, and we hope that this will not happen again. But if it does, somebody will probably get sued. And who gets sued? The deepest pocket gets sued. And the deepest pocket here is the Borough. The Borough is aware of this hazard and has done nothing to address it. Having deep pockets and an apparent liability, this seems like an uncomfortable exposure. Our question is: What is the Borough doing to mitigate that risk?"*

"The ordinance says that no burning can take place, quote, 'close to any building or other structure as to endanger such building or structure'. unquote. A precise value of 'close' is not given, but we know that 20 feet is too close, because that is how close a burn barrel was to the garage that was destroyed. There still are burn barrels that close to buildings." Mr. Farmer continued by saying that the borough is allowing this hazardous condition to continue and it will get sued.

President Finkbiner stated the 5 minute time period for Mr. Farmer's visitor comment has expired.

Councilwoman Stamm inquired if the citizen's group was stating that the borough was aware of a hazardous condition. Mr. Farmer stated the borough is now aware of it because the borough was just informed by the group.

The Secretary/Treasurer stated the group should be aware that even if the borough passes an ordinance specifying the exact amount of feet a burn barrel should be away from a structure, the existing structures and burn barrels would be grandfathered in and would not be required to be moved. Also, the ordinance would work both ways in that it would restrict neighboring property owners from erecting structures within the same amount of feet from a neighboring burn barrel.

Mr. Farmer stated it didn't make sense to him that burn barrels within dangerous proximity to a structure would be allowed to stay.

Mr. Runkle inquired if the burn barrels would need to be moved if replaced. President Finkbiner stated that was a question for the solicitor.

Councilwoman Shambach stated it is true for any electrical or building code in place. The building or structure would not need to come up to code until it was renovated.

There are existing laws that state that every day you violate it, counts as a separate offense. Mr. Farmer stated that logic didn't make sense to him because if he robbed a bank every day for several years but then a law was making it illegal to rob banks, then he shouldn't be arrested for robbing a bank. So, that statement is not true.

The Secretary/Treasurer stated criminal and real estate are different.

Mr. Farmer stated in the case of the Johnson fire in the borough, it seems the burn barrel was in dangerous proximity to the neighboring structure or it wouldn't have caught on fire. Mr. Farmer stated he will email a copy of the questions to the borough office.

President Finkbiner stated the Borough Solicitor would be given a copy of the questions. Council requested the citizen's group submit those and all future questions in writing to the Borough Office.

Councilwoman Stamm stated if someone is smoking, throws their cigarette into dry grass, and it ultimately catches a building on fire, what does the citizen's group say happens then? No one can smoke in town?

President Finkbiner thanked Mr. Farmer for his statement and stated that the Secretary/Treasurer would see that the solicitor received the group's questions.

Sally Farmer – Citizen's Group – Sally Farmer inquired as to the content of the letter sent to the citizen's group. President Finkbiner stated she would have the Secretary/Treasurer forward the letter to the citizen's group.

Councilwoman Shambach had the earlier referenced letter from the Borough Solicitor to the Citizen's Group on her cell phone and handed it to President Finkbiner. President Finkbiner read the letter aloud as follows:

"Dear Citizens

As the Solicitor for New Berlin, I felt it necessary to respond to your letter dated August 14, 2019 and read at the August Council meeting concerning burning in the Borough.

Your letter raised several questions to which I will respond.

Q1: "What plans does the Borough have for effectively enforcing the existing ordinances?"

A: The Borough currently enforces the burning ordinance through Police patrols and complaints of fellow citizens filed with the Borough office. As I am sure you are aware, the Borough does not have a full time Police force so not all 24 hours in a day are covered with a Police presence. When on duty, the police look for violations of any Borough ordinance and also investigate complaints made by citizens of violations that have been made when the police are not on duty. Your statement that "We also find it odd that the Borough treats violations of these laws differently than violations of other laws" is unfounded. Our police officers do their best to fairly and effectively investigate any ordinance violation and issue appropriate warnings/fines.

Q2 "How do you plan to address the concerns of those community members who have been impacted by these persistent violations to the point that they feel compelled to petition the

Borough Council?”

A: Your complaints were presented to the Council at the August Council meeting. The police have been notified of your concerns and are doing their job by patrolling and issuing citations when on duty.

I hope that your questions have been answered.

Sincerely,

Wendy L. Cole, Solicitor”

David Farmer stated it seems the borough is not changing what they've been doing which has already proven ineffective. Therefore, the council has not answered adequately, the citizen's group does not accept that answer, and they want to see something different.

Vice-President Hopkins stated the police committee is going to meet next week.

Mr. Farmer stated the group is glad the police committee is meeting but hopes council agrees with the group that the lawyer's letter does not indicate a change in the current status and that something different is needed. Councilwoman Shambach agreed and stated she broke the issue down several different ways and the bottom line was always a problem with the enforcement.

Cub Snook, Recreation Association, - Mr. Snook stated the Recreation Association is in need of some help with some trees at the recreation field.

Winterizing the Ball Fields – The waterline which goes to the concession stand and restrooms needs winterized. Mr. Snook wanted to make sure the borough would be handling that before it freezes.

Dog Waste Station – The recreation association requested the borough give them the approximate price they paid for the dog waste station recently placed at Plum Street Park. The Secretary/Treasurer stated she would get that information to the recreation association as soon as she has some time to look it up. Councilwoman Stamm inquired if it would be possible for the borough to order the dog waste stations for the recreation association so the purchase can be tax exempt. The Secretary/Treasurer stated it was an out-of-state purchase. Therefore, the

recreation association can order their own without paying the tax. President Finkbiner stated if the recreation association wants to purchase through the borough and council is in agreement with that, the recreation association would need to reimburse for the purchase.

Nancy Showers – Citizen’s Group – Nancy Showers stated the reason the group is being so persistent about the burning issue is because it’s been an issue for over 10 years. Mrs. Showers stated she was walking her dog down the street the other day when she was greeted by a new resident who asked her what was going on in New Berlin with the burning. Mrs. Showers stated she was not the one to initiate the conversation. They asked her about the high water/sewer bills and then asked her why there was burning of plastics. So, the formerly irrestible and quaint town of New Berlin is no longer what it was. In terms of code enforcement, it is not just about the burning barrels, it’s also about speeding and motorcycle raceway. Mrs. Showers stated she spoke with someone who was interested in the Busby’s house but did not purchase it because of the speeding on Vine Street. So, a code enforcement office would be able to help with that issue as well. The Secretary/Treasurer stated a code enforcement office is not able to enforce the vehicle code nor would they have arresting power. Mrs. Showers stated that speeding should be enforced as well since it is much worse than it used to be.

John Showers – Citizen’s Group – John Showers stated he thinks something is going right. There’s only been about four encounters in the past month where the Farmers have been smoked out and he has not had any encounters in the past month where he and Nancy got chased off their porch. So, the New Berlin grapevine is working and people are electing to observe the ordinance.

Councilwoman Stamm stated she came out of the Dollar General Store the other day and noticed a bad smell. The smell was coming from a house outside the borough which was burning something inside a burn pit. The smoke and smell was traveling inside the borough but the borough wouldn’t be able to do anything in those situations.

COMMITTEE REPORTS - Activities Committee – Angel Lights – Light strings on two of the angels need replaced. The borough will pay for the replacement lights. The activities committee will submit the receipt to the borough for reimbursement.

Councilwoman Stamm stated the activities committee will be doing another Christmas activity at the community center. The secretary/treasurer confirmed the activities committee's December 7th reservation.

New Berlin School Building Committee – New Berlin Elementary School - Councilwoman

Shambach spoke about the estimate for the cost of mold abatement in the amount of \$96,230.00 and the other previous estimates obtained for the former New Berlin Elementary School.

Council will need to decide if they wish to demolish or renovate the structure known as the old New Berlin Elementary School. Mold removal is not required if council decides to demolish the building. Both demolition and renovation requires asbestos removal. The costs of both options were explained as follows:

If council decides to renovate the structure, the cost will be approximately \$96,000 for mold remediation, approximately \$96,000 for asbestos removal, and then approximately \$1.3 million for the renovation. It was stated that the entire borough budget is approximately \$250,000 a year. Elk Environmental told Councilwoman Shambach that the roof would need to be repaired or replaced before the mold can be abated. Councilwoman Stamm inquired if the \$1.3 million included a new roof. Councilwoman Shambach stated it included a new A frame roof but it does not include mold and asbestos removal.

If council decides to demo the structure, the cost will be approximately \$96,000 asbestos removal and approximately \$150,000 to \$200,000 for the demolition. A recently obtained estimate for a new 5,000 square foot modular building came in at \$800,000.

Whether council decides to demolish or renovate the structure, the asbestos will need to be remediated. Councilwoman Shambach recommended placing money in the 2020 Budget for asbestos remediation.

Feasibility Study – Councilwoman Shambach stated the feasibility study is going to require a lot more work than she previously thought. The first part of the feasibility study is to create the scope of work which requires public meetings and input. She requested council approve her contacting Penn State to inquire if students in the Fall 2020 semester could help with the feasibility study. The classes or class chosen would take the scope of work idea, research it, present solutions to council, and create a concept for the grant application or provide the data to an engineer to create the idea. On December 11th, the New Berlin Elementary School Committee is invited to hear what they are presenting about a recent project they have been working on and talk about how New Berlin can use Penn State students for the feasibility study.

New Berlin Borough will be responsible for its own public meetings and survey. The very first step is to conduct a survey to determine how New Berlin residents would like their tax money spent. The committee will meet to discuss questions that should be included in the survey and the secretary/treasurer will send those out to council for its consideration. Several members of council stated costs and tax base should be included in the survey so residents understand the costs of the project, borough budget, and tax base. The survey will then be distributed through the borough office as it was for a previous project.

There was discussion about the use of the building and how many square feet would be needed to utilize the proposed education center. The question was impossible to answer until the feasibility study is completed and until council knows what the majority of the taxpayers are heard on what they would like to see done with the structure.

The loan for the New Berlin Elementary School property will be paid off in a few months. Because of this, Councilwoman Stamm inquired if money should be placed in the 2020 budget for a new roof. There were several reasons given for not putting money aside for a new roof. One was not knowing the wishes of the taxpayers regarding the building and another was not knowing how many square feet will the building will be until the feasibility study is complete. If the square footage of the building changes, any newly placed roof would not be conducive to the changes. Councilwoman Stamm stated she is concerned that council has already made up its mind that the building is going to be demolished. Vice-President Hopkins stated that she does not think that is

the case and that it doesn't seem reasonable to place a new roof on a structure that may not stay the same. Councilwoman Shambach stated council should be ready to remediate the mold very soon after the roof is placed so the new roof isn't ruined by growing mold. Vice-President Hopkins stated council would not solve all of the issues during the current meeting so it would be best to focus on the immediate need which is to get the taxpayer's thoughts on what to do with the structure.

Councilwoman Shambach inquired what council wanted to do first, approach Penn State regarding their students helping with the feasibility study or survey the taxpayers regarding the structure.

Council agreed that the first step was to get the survey done for taxpayers. The NBES building committee will get together to draft survey questions and give them to the secretary/treasurer for distribution to council for final consideration. The survey should include information regarding the cost of both the demolition and renovation options and any other financial information the committee deems pertinent.

POLICE REPORT- August Police Report - Council reviewed the August police report. There was a comment that the amount of police hours worked is still very low.

STREET SUPERVISOR'S REPORT – The Street Department Supervisor had nothing to report.

MAYOR'S REPORT – Mayor Hamilton was absent from the meeting. There was nothing to report in her absence.

SOLICITORS REPORT –The Secretary/Treasurer gave a few updates in Solicitor Cole's absence.

222 High Street Easement Update – Solicitor Cole made initial contact with the owner of 222 High Street regarding an easement to open up the Tan Run Channel at the west end of that property. The homeowner did not have any initial objections to the easement or project.

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

Councilwoman Shambach stated she found the conversation regarding the proposed care facility outside of town interesting. The NBMA minutes state that the plan shows the main entrance of the facility off of Route 304 but there has not yet been PennDOT approval. Concern was expressed about an additional entrance being placed on the east side of the property off of Walnut Street even though that was not specified or indicated in the minutes or plan. The Secretary/Treasurer stated the proposed care facility is in Limestone Township but Union County Planning Commission will likely contact the borough for comment if they are placing an entrance off of Walnut Street in New Berlin.

SECRETARY/TREASURER REPORT - Balance – General Fund - Rebecca Witmer reported the balance in the General Fund as \$111,866.18.

Motion to Pay Bills – Vice-President Elaine Hopkins 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 – August Checking Service Charge	25.00
M&T Bank – September School Payment	1,994.26
M&T Bank – Lease – Ford Taurus 9/16/19	3,098.91
AT&T Mobility	133.62
H.A. Thomson Company	83.00
Quill Corporation	167.60
Richard’s Portable Toilets	160.00
Union County Commissioners	2.00
PA Department of Revenue	203.43
US Treasury	1,512.76
Benjamin Pilko	8.63
Curt Keister	593.60
Jacob A. Shipman	95.80
Leif E. Hassenplug	379.96
Michael H Mattocks	930.81
Rebecca A. Witmer	1,720.38

Rodney E. Styers	217.12
William Stamm	773.59
Cardmember Service	1,501.33
Coles Hardware	25.64
Fisher Auto Parts	38.24
Kathy A. Diehl	90.00
Kim Barton	35.00
Cole & Varano	2,843.50
PP&L	921.05
The Daily Item	337.17
Union County Tax Claim Bureau	4,451.11

TOTAL \$22,343.51

OLD BUSINESS – 407-411 Front Street - The party initially interested in purchasing and restoring the condemned property at 407-411 Front Street has now declined their offer after reviewing the engineer’s report on the property. The person who purchased the property from Thomas Ward on eBay wants to give the borough his own proposal. Solicitor Cole told Attorney Showalter the proposal needs to be received sooner rather than later. Council set a deadline for receiving the proposal of October 4th at 5:00 pm.

407-411 Front Street Property Value – The Secretary/Treasurer stated that, as per an email sent from Solicitor Cole, she would like to see the borough obtain a value determination of the structures at 407-411 Front Street.

Motion – Vice-President Elaine Hopkins made a motion to hire a realtor to get a value of the structures at 407-411 Front Street. Councilwoman Meghan Shambach made a 2nd to the motion. Vote was taken with all in favor and none opposed. Motion carried.

608 Spangler Street – Taxes Owed – The previous owner of 608 Spangler Street has not paid taxes on the property for several years. The borough must pay the taxes owed on 608 Spangler Street to stop it from going up for a tax sale on September 21st. The check for the back taxes is included in the bills to be paid section of the agenda. The borough will receive a portion of the amount paid

because they are real estate taxes owed to the borough. The other portion represents school taxes. That amount will be placed as a lien on the property and the borough will get it back once the property is sold.

Demolition Scheduled – The demolition for 608 Spangler Street was scheduled to begin on Monday. However, when the hired contractor arrived at the property today in order to mark out where he'd be digging as a requirement of PA One Call, he noticed that PP&L had not yet pulled the electrical meter. There is a March 11, 2019 email on file stating that Jim Emery from CKCOG would be contacting PP&L to put in that work order. The Secretary/Treasurer left a message for Mr. Emery at the CKCOG regarding the issue but has not yet heard back from him.

Vacancy Board – Letter of Interest – Council received a letter from John Smith the letter was as follows:

"I am interested in filling the opening on the vacancy board.

Thanks
John S. Smith
401 Front Street
New Berlin, PA"

Motion – Councilwoman Barbara Stamm made a motion to appoint John Smith of 401 Front Street to the vacancy board. Councilwoman Meghan Shambach made a 2nd to the motion. Vote was taken with all in favor and none opposed. Motion carried.

Update on Pollination Gardens & Motion for Application – Councilwoman Shambach reported that she attended the most recent NBMA meeting where they approved the placing of one of the pollination gardens on their property at the west end of town.

The Secretary/Treasurer stated that Solicitor Cole has been in contact with the NBMA Board Solicitor regarding the easement for the garden. Once the easement is signed by the NBMA, the Secretary/Treasurer will sign the application for the pollination gardens and forward it to Councilwoman Shambach. Council already approved the application for the gardens so no motion is needed for the application but one is needed in the event the borough needs to sign anything

pertaining to the NBMA easement.

Motion – Vice-President Elaine Hopkins made a motion to allow the signing of all documents pertaining to the easement for the pollination gardens. Councilwoman Meghan Shambach made a 2nd to the motion. Vote was taken with all in favor and none opposed. Motion carried.

NEW BUSINESS – Fire Company Fundraiser – October 26th – The Secretary/Treasurer was contacted by the fire company regarding a possible fundraiser on October 26th. Council will need to approve the event for insurance purposes. The insurance company gave the Secretary/Treasurer a few items the fire company will need to obtain for the event such as a certificate of insurance from the company providing the bounce houses, waivers from any volunteers working the event that are not on the active fire company roster, etc. That list was forwarded to the fire company.

Motion – Councilwoman Meghan Shambach made a motion to add the October 26th New Berlin Fire Company Fundraiser as an approved event. Councilwoman Barbara Stamm made a 2nd to the motion. Vote was taken with all in favor and none opposed. Motion carried.

Union County Local Emergency Planning Committee – Councilwoman Shambach stated she attended the quarterly meeting of the Union County Local Emergency Planning Committee. The County does not currently have an Emergency Training and Office Manager due to the resignation of Ashley Swineford. The Union County Commissioners have not yet approved the filling of that position. Councilwoman Shambach cannot complete the NIMS Training unless she takes it online but she has a year to complete the training.

During the meeting it was stated that Union County is purchasing a utility test vehicle with EMS attachment. New Berlin can request use of the vehicle during certain events or emergencies which prevent fire trucks and other emergency services vehicles safe passage through the event or area of emergency. The vehicle only holds 100 gallons of water so it may not be adequate in the event of a fire.

ADJOURNMENT – Motion – Councilwoman Betty Kratzer made a motion to adjourn the meeting. Vice-President Elaine Hopkins 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

MAYOR