



**Town of Berlin
Municipal Office Building
108 Shed Road**

**Berlin, VT. 05602
Regular Select Board Meetings
1st & 3rd Thursday of Each Month**

**Monday, October 19, 2020
7:00 PM**

Selectboard Members: Bradley Towne, Chair; Flo Smith, Co-Vice Chair; Justin Lawrence, Co-Vice Chair; John Quinn III, Secretary; Angelina Capron. Present: Tom Badowski, Assistant Town Administrator; Diane Isabelle, Town Treasurer; Greg Gallant, ORCA. All items are unanimous unless otherwise noted.

APPROVED MINUTES

Selectboard Meeting – Call to Order

Chair Towne called the meeting to order. Towne, Smith, and Quinn appeared at the meeting in person; Lawrence and Capron attended electronically.

Additions or Changes to the Agenda

Towne added a topic to appoint Tom Willard to the Conservation Commission.

Public Comment

A resident attended to express opposition to the opening of Black Road to snowmobiles, citing a lack of warning in the newspaper and inappropriateness of the road for shared use with snowmobiles. The discussion was trailed until the conservation commission agenda item.

Treasurer's Report

Town Treasurer Isabelle presented a contractor's application for Paine Turnpike North sewer project in the amount of \$396,066.38 and has been signed by the contractor, engineer, and USDA. Smith moved to approve the amount of \$396,066.38 as presented. Seconded by Quinn. Passed 4-0.

At this point in the meeting, Lawrence and Capron complained of an inability to hear what was being said via the telephone line. At the time of voting on the motion for the project amount, Lawrence appeared to have disconnected.

Approval of Licenses, Permits, Vouchers, and Applications

Smith moved to approve payroll warrant number 21-08 for payroll from September 27, 2020 – October 10, 2020, paid on October 14, 2020, in the amount of \$37,829.85; payroll warrant 21g08 with checks 20597-20634 in the amount of \$58,761.21; September journal entries and tax administrative adjustments. Seconded by Quinn. Passed unanimously.

State Police Barracks Relocation – Captain Michael Manley

Town of Berlin

Municipal Water & Wastewater Allocation Ordinance

Captain Manley introduced Cherilyn and Joe as the experts on the building and what the desire is to do at the location. He provided an overview of the project. He explained that there are issues with the existing facility prompting them to begin the relocation process. Towne asked how long they plan to be in Berlin. The time period is not known and is pursuant on the state police obtaining funds to build a permanent facility and where such a facility may be built. For the time being, however, they will be relocating to Berlin. There was a brief discussion of the design. Quinn asked about the number of troopers that will work out of the facility and it was indicated that about 27 will be on staff. Quinn followed up with a question regarding funding and whether they have enough for the move or only for design. Joe said the move is covered by the available funds. The estimated completion date is December 2021.

Conservation Commission - Darling Hill Bridge Repair/Irish Hill Town Lands – Phil Gentile

Conservation Commission member Phil Gentile first discussed a memo provided to the selectboard regarding the VAST trails and use of public lands. The commission wishes to start a dialog regarding public use of town land. The memo includes a history of Irish Hill and the town land in that area. Gentile felt there is information in the memo that was not known by the board in the past meeting. Towne discussed the covenants and asked if the document is meant to be read as not allowing motorized vehicles. Tom Willard answered that motorized vehicle use is permitted if the town adopts forest management plans and the Vermont land trust approves it. Towne asked if, in the short term, the town rebuilds the bridge to allow a side by side or other vehicle for emergency services if that must go through the process. Willard was unsure but believed the Darling trail is under purview of the town's authority. Quinn explained that the sign at the beginning of that trail system allows for motorized vehicles and asked if that includes snowmobiles as it seemed that Willard understood the rules to determine that snowmobiles are not allowed. A response was provided that the sign allows ATVs but is silent on snowmobiles. Josh Walker discussed the part of the town land requested and explained it as being minimal town land before crossing into private land. Towne asked if the conservation commission can provide a map that details what the town owns and the easements that cross that land.

Fisher Road Culvert – (Badowski)

The survey work is completed and a smaller structure may be a viable option. The soils work will be done in the next two weeks. A preliminary budget is anticipated in a similar time frame.

Brandy Saxton/Karla Nuissl – Berlin Town Center

1. Neighborhood Development Area (Saxton)

Saxton explained that a neighborhood development area does not have to be in the new town center but can be within a reasonable distance from the town center area. The proposed area is the mall property, car dealership, main campus of the hospital, and some frontage on Paine Turnpike. Areas can be added in the future. Saxton reviewed the benefit sheet provided to the board. The major benefit is that the properties involved receive Act 250 advantages. There was discussion regarding the possibility of adding a bike path to Paine Turnpike/Fisher Road to connect to more territory. The neighborhood development area connection requirements call for land connectivity that the sidewalk perimeter connectivity may not accomplish. There was mention of a desire to connect to land under future development by Mr. Lamberton. Saxton provided a brief explanation of the addition of the hospital to the designated area. The

Town of Berlin

Municipal Water & Wastewater Allocation Ordinance

designation had to do with designating 125 acres of land that could be included and remapping as more information became available about boundary lines.

2. Support Resolution Future Municipal Facilities (Badowski)

Badowski provided a draft support letter for adding town facilities in the designated area. The letter is not binding but does need to accompany the application. Smith moved to approve the resolution in support of locating future town facilities in the designated town center as presented by Tom Badowski and provided to the board. Seconded by Quinn. Quinn asked if the letter would eliminate the board's ability to weigh in on boundary line changes. Badowski explained that the board will have the last approval before maps are submitted. Towne discussed a desire not to locate the police department in the town center due to potential for crowding. He agreed to town offices being appropriately placed in the area. Badowski reminded the board that these applications and plans are for work that will be done a number of years in the future. Passed unanimously.

3. Water/Wastewater Allocation (Badowski)

Badowski next provided the water/waste water ordinance he made progress on since the last meeting. Towne believed that 2 public warned meetings are required after passing the ordinance before final adoption. Smith moved to put the water and wastewater allocation documentation, as provided at this meeting, before the public. Passed unanimously.

4. VTrans Alternative Transportation Grant (Badowski)

Badowski continued discussion of the grant that is for non-vehicular projects. He expressed an interest in doing a scoping study of the area around where the town center is planned. That study would use the extent of the grant funds which require a 20% match.

5. BTC Application Submittal (Saxton/Nuissl)

Saxton updated the board on the timeline for the application, reviewing first the completed work followed by the remaining steps. Changes to the draft will be possible until the point of a final application, depending on the extent of the change.

Selectboard Prorated Meeting Stipend – John Quinn III

Quinn suggested that the board members be paid their stipend according to the number of meetings attended. He asked for members to consider this system at the last meeting. Isabelle prepared a spreadsheet of the number of meetings attended by each member and calculated the proration accordingly. Capron asked about the motivation for the policy. Quinn explained that he experienced a similar system on the fire department in Northfield. Capron expressed concerns that the policy is directed at her and asked if that is the case. Quinn responded in the negative. Towne stressed accountability to the public as elected officials, equating time spent at meetings as the product the board provides to citizens of Berlin and a need for compensation to mirror product output of each board member. Since it is the board's responsibility to ensure that town money is well spent, Towne continued, members of the board must contribute to creating product that benefits town citizens if the board member expects compensation. Capron was concerned about a cut in the stipend falling under employment law and constituting a violation of state statute. She cited a provision proclaiming exclusion of a publicly elected official from

Town of Berlin

Municipal Water & Wastewater Allocation Ordinance

participation in meetings to be a misdemeanor. Towne asked how it may be an exclusion. Badowski reminded everyone that the new system would apply equally to all board members. Quinn recalled an experience on the Northfield selectboard when members of the board cut their stipend to \$0 during difficult fiscal times. Quinn moved to break down the selectboard stipend by the number of meetings attended from the current meeting forward. Seconded by Smith. Smith asked if the desire is for this point moving forward or for this session (since March). She felt it should apply from January to December of the current calendar year. Quinn amended his motion to reflect Smith's clarification of applicability to the current 2020 calendar year. Capron asked that the legality be considered before the system is applied. Smith explained that the intent is not exclusion but is to utilize this stipend calculation system; there is no exclusion from participating in meetings implicated.

Police Chief Recruitment

The hiring committee has met and personally interviewed two candidates who are to be discussed further in executive session.

Town Administrator Recruitment

The selection committee has interviewed the first session of candidates and hope to make their way through the sessions by end of October. Badowski expects a recommendation for 2 candidates to be submitted by mid November.

Emergency Medical Services RFP

Badowski prepared the RPF for EMS services. The current contract expires June 30, 2021. The RFP is for 3 years with an additional 2 year option. Badowski asked for board approval before posting. No vote is needed; the board accepted the RFP.

Local Government Expense Reimbursement Grant

There are six projects working through the review for this grant. Approximately \$30,000 of the \$70,000 grant is still available. The funds may be used for COVID projects. Another suggested project is to enhance audio/visual equipment in the town office.

Municipal Roads Grants-In-Aid Program

Smith moved to accept the letter of intent to participate in the Municipal Roads Grant-in-Aid program as presented. Seconded by Quinn. Passed unanimously.

DRAFT Department Project Status Report

Following up on a desire to consolidate department projects, Badowski prepared a report. No action needed at this meeting, the report was provided to the board for information. Quinn asked if it was prepared in his request for a department head report. Badowski answered that it was.

Approval of Minutes – October 5, 2020

Town of Berlin

Municipal Water & Wastewater Allocation Ordinance

Smith moved to approve the minutes of October 5, 2020 as presented. Seconded by Quinn.
Passed unanimously.

Tom Willard Appointment to the Conservation Commission

Smith moved to appoint Tom Willard to the Conservation Commission. Seconded by Quinn.
Passed unanimously.

Roundtable

1. 11.02.20 Haskin Dodge Farm Road

Executive Session

Quinn moved to enter into executive session with members of the selection committee. Seconded by Smith. Passed unanimously.

Quinn moved to exit executive session. Seconded by Smith. Passed unanimously.

Quinn moved to adjourn. Seconded by Smith. Passed unanimously.

For the Select Board:

Bethany A. Towne

TOWN OF BERLIN, VERMONT

MUNICIPAL WATER & WASTEWATER ALLOCATION ORDINANCE

EFFECTIVE DATE

BERLIN SELECTBOARD

Adopted: _____

Revised: _____

Town of Berlin
Municipal Water & Wastewater Allocation Ordinance

TABLE OF CONTENTS

- SEC. 1-100. AUTHORITY
- SEC. 1-101. DEFINITIONS
- SEC. 1-102. REQUEST FOR CAPACITY
- SEC. 1-103. ALLOCATION OF UNCOMMITTED RESERVE CAPACITY
- SEC. 1-104. EFFECTIVE DATE
- SEC. 1-105. SUNSET PROVISION
- SEC. 1-106. SEVERABILITY
- SEC. 1-107. CIVIL ORDINANCE

Town of Berlin
Municipal Water & Wastewater Allocation Ordinance

AUTHORITY

This Ordinance has been duly adopted by the Town of Berlin Selectboard, on _____, 2021, and will become effective as specified in Section 1-104.

DEFINITIONS

“Public Works Board” means the Public Works Board of the Town of Berlin, as convened under 24 V.S.A., Section 3614.

“Committed Water Reserve Capacity” means the amount of total assigned ERUs for all projects/buildings approved by the Town for connection to the Water System, but not yet connected at the time of the calculation.

“Committed Wastewater Reserve Capacity” means the amount of total average daily flow (gallons per day) and loading from all projects/buildings approved by the Town for connection to the Wastewater Collection System, but not yet connected at the time of the calculation.

“Person” means any individual, firm, company, association, society, corporation, or group, or as prescribed in 1 V.S.A., Section 126.

“Uncommitted Water Reserve Capacity” means the authorized capacity of the Town of Berlin Water System minus total assigned ERUs for all projects/buildings approved by the Town for connection to the Water System, including those not yet connected to the Water System at the time of the calculation.

“Uncommitted Wastewater Reserve Capacity” means the Town discharge limit to the City Wastewater Collection System (as established by City-Town agreement) minus the most recent 12 months estimated average daily flow and loading of all projects approved by the Town and City, including those not yet connected to the Wastewater Collection System.

“Must” is mandatory; “May” is permissive.

REQUEST FOR CAPACITY

Town of Berlin
Municipal Water & Wastewater Allocation Ordinance

Persons wishing to use uncommitted capacity of the Town Wastewater Collection System must apply to the Public Works Board in accordance with the provisions of Section 1-104 of the Town of Berlin Municipal Wastewater Collection System Ordinance.

Persons wishing to use uncommitted capacity of the Town Water System must apply to the Public Works Board in accordance with the provisions of Section 1-104 of the Town of Berlin Water Ordinance.

The Public Works Board must approve the request for use of uncommitted capacity in accordance with the provisions of the Water System and/or Wastewater Collection System ordinances, as applicable, and the allocation formula established in Section 1-103 of this ordinance.

ALLOCATION OF UNCOMMITTED RESERVE CAPACITY

Each June, the Public Works Board will determine the Uncommitted Water and Wastewater Reserve Capacity to be available for the next fiscal year.

The Public Works Board must allocate Uncommitted Water and/or Wastewater Reserve Capacity by location, type of use and rate in accordance with the following:

If any existing water or wastewater treatment system fails, the Board may make an emergency allocation to alleviate a public health hazard or environmental harm irrespective of the allocation formula.

The Board must allocate at least 30% of the Uncommitted Water and Wastewater Reserve Capacity to serve Berlin's designated New Town Center.

The Board must allocate at least 10% of the Uncommitted Water and Wastewater Reserve Capacity to residential projects that meet the definition of affordable housing in 24 V.S.A. § 4303(1).

The Public Works Board allocates capacity to a specific project on a parcel of land identified by tax map parcel number. After the project is connected to the water and/or wastewater collection system, any unused allocation will revert to the Town.

EFFECTIVE DATE

Town of Berlin

Municipal Water & Wastewater Allocation Ordinance

- A. This ordinance will become effective upon the Town of Berlin obtaining a New Town Center Designation from the State of Vermont and not less than 60 days following the date of adoption as set forth in Section 1-100, unless a permissive referendum is called for pursuant to 24 V.S.A. Sec. 1973, which provides as follows:

An ordinance or rule adopted by a municipality may be disapproved by a vote of a majority of the qualified voters of the municipality voting on the question at an annual or special meeting duly warned for the purpose, pursuant to a petition signed and submitted in accordance with subsection (2) of this section.

A petition for a vote on the question of disapproving an ordinance or rule must be signed by not less than five per cent of the qualified voters of the municipality, and presented to the legislative body or the clerk of the municipality within 44 days following the date of adoption of the ordinance or rule by the legislative body.

When a petition is submitted in accordance with subsection (2) of this section, the legislative body must call a special meeting within 60 days from the date of receipt of the petition, or include an article in the warning for the next annual meeting of the municipality if the annual meeting falls within the 60-day period, to determine whether the voters will disapprove the ordinance or rule.

Sunset Provision

This ordinance will remain in effect while the Town of Berlin has a New Town Center designation from the State of Vermont.

Severability

- A. In the event that any section, provision or other portion of this Ordinance is determined to be invalid by a court of competent jurisdiction, such determination will not affect the validity of any other section, provision or portion of this Ordinance, which will be given effect without such invalid sections, provisions or portions thereof.

Civil Ordinance

- A. Pursuant to 24 V.S.A. Sec. 1971, this ordinance is designated a civil ordinance.