

East Berlin Borough Council

June 6, 2007

President Charles Eisenhart called the meeting to order at 7:30 PM in the Municipal Building. The meeting opened with the Pledge of the Allegiance.

Members Present: President Charles Eisenhart, Janet Bollinger, Forrest Brehm; Gregory Green, Jacque Hoffman, and Rick Saxon.

Members Absent: Gerald L. Mummert and Mayor Keith Hoffman

Also Present: T. Michael Thoman, Borough Manager; Solicitor Matthew Battersby; Hanna Furst, Office Secretary; Patrick Brown, Buchart-Horn; Officer Mike Grim, Ken Furst, David Richards, Freda Lennon, Robert Clayton, Doris Sabine, Sally Hoffman, Larry & Cheryl Hamilton, Marlin & Roberta Householder, Dave Woodward, David Meixner, Doris Brehm, Charles Philip, Toby Bowden, Jane Gulde, Millie Liberatore, John Schlaline, Gene Swartz, John Cleary, Gerald E. Mummert, Shannon Morehead, Kimberly Metzger, and Amy Leatherman.

The minutes of the previous meeting were approved.

On a motion by Gregory Green, seconded by Jacque Hoffman and passed, payment of the bills for the month of April was approved.

A motion was made by Forrest Brehm to draw on our loan for the Act 537 for an interest payment of \$326.08; it was seconded by Rick Saxon and approved.

Constituents from the community that wish to address council are as follows with a five (5) minute allotment.

Doris Sabine, 504 West King St., stated she is concerned about the safety of the residents in town. She mentioned speeding cars & trucks; crosswalk lines, the Bar-B-Q smoker, and fire hydrants. Mrs. Sabine informed the council she has made up a newsletter with phone numbers and other information. She feels the borough should have more of the pedestrian channeling devices out. She would like to see one on each side of the crosswalks.

Gerald E. Mummert, 30 Fish & Game Road, stated that the roaring noise all night long from the blowers at Zeigler's Mill is still a constant annoyance, and the smell at the west end of town smells like old road kill. Mr. Gerald E. Mummert stated that the Borough must have a noise ordinance. Mr. Gerald E. Mummert stated DEP doesn't have noise regulations; it is the responsibility of the local governing body. Attorney Battersby stated that is an industrial area, and the police department doesn't have equipment to measure the noise level to cite them for a violation of an ordinance; and that you would have to prove your case by scientific measurements, and feels the Borough cannot do anything. Mr. Mummert stated that Reading Township has a machine to measure the noise levels and would come to his place and measure the noise level. President Eisenhart asked Mr. Mummert to let him know what Reading Twp finds when they do the reading. Mr. Mummert asked if council would accept their findings and his response was; he didn't think so. Mr. Battersby stated that if you were to go to court, you would have to prove the machine was calibrated and the operator was certified to use the machine or you would waste your time in court.

Mayor's Report: *None-due to Mayor's absence.*

Solicitor's Report:

Attorney Battersby drew up a temporary basis agreement between the East Berlin Borough and Kenneth E. Young and Patricia J. Young at 203 Beaver Street; in order to improve and control the storm water drainage area coming off of Beaver Street. The permission will include the ability to drive and operate equipment upon the Young's property in order to effectuate the necessary storm water drainage improvements. Attorney Battersby asked for a motion to offer this agreement. *The motion was made by Gregory Green and seconded by Rick Saxon to offer this agreement to the Young's. Motion carried.*

The next item on the solicitor's agenda was to entertain a motion to advertise **Ordinance # 2007-3**; to create a municipal authority with Hamilton Twp. for a portion of Hamilton Twp.; to be known as the "East Berlin Area Joint Authority" and to appoint a governing body and authorizing the execution and filing of the Articles of Incorporation. *The motion was made by Forrest Brehm and second by Jacque Hoffman to authorize the advertisement of Ordinance # 2007-3. Motion Carried.*

Solicitor Battersby will check our ordinance concerning the Realty Transfer Tax is in compliance with the county's and state's and will report back at the next meeting.

His final item is concerning the noise pollution problem, which he stated Mr. G.E. Mummert is correct, he found there aren't any noise regulations with the state. The PA crime code addresses noise only in the content of disorderly conduct. Attorney Battersby explained there are a lot of things that would have to be done to try and rectify anything concerning the noise and Zeigler Bros. are doing what they are allowed to do in that zone. A discussion followed concerning the Zoning Ordinance Section 511. Attorney Battersby stated that Mr. Mummert has a remedy; it's called a private nuisance complaint. He can see a lawyer and file a complaint and sue Zeigler Bros. and get an injunction. Mr. G.E. Mummert read a portion of Section 511. Mr. Robert Clayton stated the noise nuisance could be handled with one call to OSHA. He stated they would do an air sampling, and they are qualified to use their machine, and it is calibrated. OSHA will come down to anyone with a problem; they just need to be notified. *Rick Saxon made a motion and Janet Bollinger seconded the motion to contact OSHA. Motion carried.* President Eisenhart said he will check with OSHA.

Engineer's Report:

Buchart-Horn Patrick Brown of Buchart-Horn, Inc. informed council that Buchart-Horn contacted DEP on the Act 537, but have heard nothing back, and DEP has until September to review the plan and give their recommendation. The mapping is finished for the new sewer plant, but the surveying is on going.

COMMITTEE REPORTS:

Finance Committee: None

Streets Committee: *Forrest Brehm made a motion to adopt Ordinance No. 2007-2 to Amend Appendix F of Chapter 67 Truck Traffic prohibited. Jacque Hoffman seconded the motion. Motion Carried. Ordinance # 2007-2 is made a part hereof.*

Councilman Brehm mentioned that the crosswalks will be painted in a few weeks.

Sewer & Water Committee: President Eisenhart stated 31 hydrants were greased and flushed, and the borough is waiting on the fire company to help locate sites for the dry hydrants. They are to meet on June 12th to check the sites.

IT Committee: None

Public Safety: *Janet Bollinger made a motion to advertise Ordinance #2007-4, to amend Section 34-2 of Chapter 34 Fire Prevention Code, and Rick Saxon seconded the motion. Motion carried.*

Planning & Zoning: None

Personnel: Jacque Hoffman read Julie Swanger's resignation as Secretary/Treasurer of Borough Council. *Jacque Hoffman made a motion and it was seconded by Gregory Green to accept Julie's resignation. Motion carried.*

Jacque Hoffman made a motion and it was seconded by Gregory Green to advertise for a part-time clerk/secretary to work 15-20 hours a week. Motion carried.

Parks & Recreation: Rick Saxon stated DCNR has approved a grant in the amount of \$100,000 from the state. He informed council that Buchart-Horn, Inc. is going to be the design engineers for the park project so they can coordinate with the sewer plant plans. There will be sewer lines going thru the park land. Rick Saxon also stated the Park & Rec Committee meets the second Thursday of the month at 7 PM at the Borough Hall and all are invited to attend.

Unfinished Business: None

New Business: President Eisenhart informed Council that the Borough Manager Mike Thoman has been checking on prices for a new 2008 Diesel Ford 750 XL dump truck, the present one is a 1968 and the garage is having trouble finding parts to fix it. Mike Thoman stated the Borough would piggyback with Harrisburg on the state bid, which would save the borough approximately \$17,907. The truck would cost \$90,597 which includes the truck, the plow, and the cinder spreader. Since it's a smaller truck there is no need for CDL's. *Mr. Gregory Green made the motion and Mr. Forrest Brehm seconded the motion to purchase the truck. Motion Carried.*

Correspondence:

The Borough received thank you letters from the East Berlin Community Library; the Visiting Nurses Association; Adams County SPCA; Adams County Transportation Assn.; and the Adams County Crime Stoppers, for our yearly donations.

Borough Manager Mike Thoman received a certificate of completion from PA Emergency Management Agency.

President Eisenhart opened the floor for a civilized discussion period. Residents were asked to refrain from talking while someone else is talking, and wait to be identified to speak.

Doris Sabine questioned the Rutter's Expansion decision. President Eisenhart stated it is not handled by the borough council; it is handled by the zoning hearing board. The zoning hearing board is a separate agency, it was handled legally. Ms. Sabine still wanted to know about the police answering machine. President Eisenhart stated she would have to talk to the Mayor about that. Officer Grim informed Ms. Sabine to call 911 for an emergency or county control.

Jan Hoffman questioned if the ordinance that Jerry Mummert read from had any teeth to it. She feels Mr. Mummert doesn't want to shut Zeigler Bros. down, but just to lower the noise level. Attorney Battersby stated it was a Zoning Ordinance, and suggested we wait until OSHA has been contacted.

John Cleary feels he should have been contacted concerning Rutter's Expansion since he lives close by. President Eisenhart stated it is not handled by the borough council; it is handled by the zoning hearing board. Attorney Battersby tried to address this. Mr. Cleary feels he is not being represented fairly.

John Schlaline addressed council that he feels the Borough Council could have influenced the Zoning Hearing Board. Things can be changed; maybe larger signs in the future and larger ad in the newspaper may help. He also feels that Mr. Young should not have a stigma attached to him as being a radical and has a separate Ken Young file because he cares about this town. He questioned if any other citizens have a separate file. Mr. Green stated the reason from the Ken Young has a file is because Ken Young is always giving council stuff to put in a file. He requests stuff is kept here. There is a folder with the stuff that Ken Young gives us.

Doris Sabine questioned if the water bill is going up. President Eisenhart stated the budget is already done for this year. The sewer will probably go up next year.

Gene Swartz asked what was going to be done with the old dump truck and how many miles are on it. President Eisenhart stated they have no idea at this time, what would be done with it or how many miles are on it.

President Eisenhart adjourned the meeting at 8:35 PM. The next regular meeting will be held Wednesday, July 11, 2007, at 7:30 PM, in the Municipal Building, because of the July 4th holiday.

Respectfully submitted,
Hannelore Furst, Secretary