

East Berlin Borough Council

November 7, 2007

President Charles Eisenhart called the meeting to order at 7:30 PM at the Liberty Fire Company. The meeting opened with the Pledge of the Allegiance.

Members Present: President Charles Eisenhart, Janet Bollinger, Gregory Green, Gerald L. Mummert, Jacque Hoffman and Mayor Keith Hoffman.

Members Absent: Rodrick Saxon and Forrest Brehm.

Also Present: Solicitor Matthew Battersby; Borough Manager T. Michael Thoman, Hanna Furst, Secretary; Bruce Hulshizer of Buchart-Horn; Officer Mike Grim, Earl Bollinger, F. Schuhart, David Richards, Freda Lennon, Robert Clayton, Doris Sabine, Jan Hoffman, Dave Woodward, Eli Mailey, Charles Philips, John Schlaline, Lou Ann Van Lieu, Ken Young, John & Karen Cleary, Marlin & Roberta Householder, Bill Bechtel, Carol Mayer, Clyde Groupe, Larry Larue, Fred & Pauline Sauter, Melissa Earp, Rebecca Meixner, Bev Jadus, Bill Powell, Jean Heininger, Rosann Hoffman and Erin James, Evening Sun Reporter.

The minutes of the previous meeting were approved

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

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

John Schlaline, 118 Abbottstown Street, offered suggestions and comments to the council. He believes it is imperative that a transparent open book government be practiced. He recommends a chart stating the hierarchy of the government in the town, and makes it public knowledge. This way the citizen would know what office is responsible for what and who answers to whom. He also suggested abandoning and rewriting the Resolution concerning the citizen involvement in the town government, especially the right of the citizens to be heard at town meetings. Mr. Schlaline continued his suggestions by calling on the current and future people serving the town to re-examine what it purely means to serve the people of East Berlin and also Borough Council should adopt a mission statement geared at governing as public servants, leaders, decision makers, and good neighbors. He also recommended Borough Council audit/inspect to determine if all original public records are located in the Borough Hall. Concerning the recording of the minutes at Borough Council meetings, he recommends that recording be re-instituted and archived for 7 years, and available for public inspection. Mr. Schlaline offered his compliments that the Borough Minutes are posted on line. The next subject on his agenda was air quality and environmental issues in East Berlin and believes these issues should be taken seriously and wants Borough Council to monitor what happens and remain closely involved with principles of businesses regarding this matter of concern. The next item Mr. Schlaline discussed was about the water and sewer issues being complex, and much public input from the citizens should be solicited. Mr. Schlaline continued with his concerns about the Rutter's Expansion and the opposition to it, and the approval process to allow Rutter's to proceed was preformed in a sneaky backdoor fashion by the powers that be. Because of this he thinks everything should be started over and done properly. He wants Borough Council to repair this injustice immediately. Mr. Schlaline's final concern was to ask Council to settle the drainage issue on Mr. Young's property in a fair manner. He then thanked Council for the opportunity to address these issues.

Ken Young, 203 Beaver Street, stated he was perturbed over the timing of the article in the Evening Sun, by Erin James titled "East Berlin Council Considers More Time for Public Comments". He felt this article should have been published before the election. He made a few statements that he thinks East Berlin Borough Council violates the Sunshine Law; i.e.: East Berlin residents are not allowed to ask questions or voice their opinions at Council meetings or work sessions, unless you register prior to Council meeting and not at all at the work session. He thinks the contract with Buchart-Horn on the park was not discussed or mentioned at open meetings. He also thinks the minutes concerning the residents comments are inaccurate and are not being corrected and should allow residents to correct them. Mr. Young continued his speech with comments about the Park and Rec meeting of July 12, 2007, where he questioned the priority of soccer fields. He made mention that,

then Chairman Rick Saxon, informed the Park & Rec. Committee that the Latimore Twp. Soccer Club would be donating their soccer equipment to the East Berlin Park & Rec., because they lost their lease of the land. After seeing an article concerning the soccer club in the Gettysburg Times, Mr. Young contacted the Latimore Twp. secretary and questioned her concerning their soccer club. He thinks Mr. Saxon misinformed the Park & Rec. Board and was supported by Gerald L. Mummert and Mary Beth Levan. Because of this, he is asking for the resignation of these two members, Gerald L. Mummert and Mary Beth Levan from the Park & Rec. Committee.

Mr. Gerald L. Mummert, Park and Rec. member asked President Eisenhart for the floor so he could respond to Mr. Young's comments.

Mr. Mummert stated that in response to the statement concerning the Latimore Twp. Soccer Club members; the Park & Rec. Committee was dealing in faith with those people who came to the Park meeting and informed the park members that they would probably not have a place in their park to play soccer and they would support our park, by giving over \$2,000 worth of equipment. Then afterwards, they were approved to have a soccer field. Mr. Mummert can't believe after all the time and effort he and the other members have put into this project, that Mr. Young wants to turn it into a rail park. Mr. Mummert continued that there is almost \$200,000 received so far from residents of this community and the businesses in and around town, and a \$100,000 grant from the state to build this park. Mr. Mummert questioned; what would we tell all the people who donated the park money for the children, the people in the community, and the elderly he sees walking; now, we are going to have a trail for them walk and something for the children also. Mr. Mummert stated you (Mr. Young) want to make it into a Rail/Trail; he then stated he hoped the people in the community understand what Mr. Young said and what the people in the community want.

Mr. Mummert's next comment was concerning the article in the newspaper last night. According to the article written by Erin James, there is no proof or indication that the Borough Council is not adhering to the Sunshine Law. Mr. Mummert continued that he plans to present to Council tonight a resolution giving residents more time to speak. He also stated that when Council is asked to do things, and you don't get what you want, then you think council is wrong, but we (Council) can't just please 10 or 15 people. Council has to look out for everyone in the community and do what we feel is for everyone's benefit.

Mr. Young then commented on the 32 acres of Kuhn's Park (Lafayette Park) stating that people don't know we have; and that would make a beautiful park. He then continued commenting on the proposed pavilion on the 17 acres that he feels is not needed, but we do need a band stand, which could be built for \$40,000 with volunteers. He received this information from Latimore Twp. Mr. Mummert informed Mr. Young that the Park & Rec. is going by what the people wanted 5 years ago. He questioned Mr. Young, if he was so enthused about the 32 acres, why has it taken him all this time to bring this up.

Freda Lennon, 516 West King Street, commented on her concerns about a few years ago, because the abundance of cats, Council decided that any cat without a collar was considered stray and only 2 pets per household were allowed. Times have changed, and now a cat without a collar probably has a chip implanted in its neck. It is dangerous for cats to wear collars; they may hang themselves by their collar. Now, we have an abundance of rats, and very few cats, and she would like to know the Council is going to do about it. Ms. Lennon stated there are rats around Rutter's, Pennwood, the old laundry mat, and across the street from her on West King Street. She thinks Council worries about the weeds, and a few stray cats, but not about the rats. She was told that it was the landlords responsibly to get rid of the rats, but she doesn't think it's her responsibly to tell the landlords that their properties have rats. She stated something should be done soon. President Eisenhart stated he would look into it.

David Richards, 202 Beaver Street, his questions that he was going to ask were answered at the work session. They dealt with the differences between audits of 2005-2006. One was the occupation tax increase which was answered because of the increase in the tax rate. Under public safety the revenues were reduced from \$10,000 to \$2,000 and it was stated that markings in the street and other safety measures have reduced the fines. Mr. Richards still had questions on the legal expenses, the solicitor stated that the shortfall between the timing of the receipt of the monies and the expenses. The 2006 audit will show up as 40 + thousand expenses and 2007 audit will show increase in revenues, and Mr. Richards acknowledges there is no way to avoid this. His next question was about whether the amounts of money in the water and sewer funds have been determined yet. President Eisenhart stated they have been. He then asked why it was decided on doing quadrants rather than worse first on the sidewalks. President Eisenhart answered that it was decided on properties that have curbs but no sidewalks, not on the worse sidewalks. Mr. Richards feels it should be done by ranking the risks.

Karen Cleary, 122 West King Street, expressed her delight in how the meeting is being conducted tonight. Her first request is for Council to the amended Ordinance #2007-2 appendix F to add South Ave to this Ordinance; the exact same issue exists as North Ave had. There is definitely a safety issue here, if Rutter's is allowed to expand. Her next request was for Council to consider renegotiating the seven variances concerning Rutter's expansion. Her other concern was pertaining to Mr. Mummert's proposal to add a time limit on the public comment period at the end of the council meeting. She felt to apply a 20 minute cap on the public participation seemed ridiculous. Also, Ms. Cleary stated she attended the "Meet the Candidates" night, and Mr. Mummert was there and wanted to correct a statement and he was told he couldn't, but they finally relented and allowed him to speak. Mr. Mummert now knows what it is like to not be allowed to speak at a meeting when you want to get a message across.

Mr. Mummert responded that he just wanted to ask permission to clarify comments that were coming up. He also stated that Mrs. Young stated last month at the council meeting the candidates would receive 6 or 7 questions in the mail to prepare and the moderator will pick 3 of those questions to ask them, and the audience will be able to write questions on a card that they have for the candidate. The resident's questions weren't answered because they ran out of time, so that is what you accuse Council of not doing. Mr. Mummert stated council asks the residents to do the same, and that is to submit their concerns to the office before the work session, but they can't always get to the questions.

Mayor's Report: Mayor reported that Trick-or-Treat went well. The mayor then gave the police report of 51 incidents responded to during the month October. He then reported that there will be a citation sent to the tenants of the Earl Brown residence.

Solicitor's Report: Attorney Battersby stated there are items on his agenda, the first being there was an Ordinance prepared for adoption tonight concerning the \$200,000 loan from Community Banks, but because it wasn't published in time, he recommends holding a special meeting Thursday November 15, 2007 @ 7PM at the Borough Hall. This is to get the interest rate at 4.79%. Then the Ordinance will be sent to Harrisburg. This will be a 5 or 10 minute meeting.

The motion was made by Gerald L. Mummert to have a special meeting, Thursday November 15, 2007 @ 7PM at the Borough Hall; it was second by Janet Bollinger and approved.

The next piece of business is Resolution #11-2007-8 Reviving the East Berlin Municipal Authority and Appointing the Governing Body of the Authority. The reason for reviving the Authority; which expired November 2005; is so the Borough can transfer the assets (rights-of-way, etc.) to the new authority. *The motion was made by Jacque L. Hoffman to adopt Resolution #11-2007-8 Reviving the East Berlin Municipal Authority and Appointing the Governing Body of the Authority; it was second by Gerald L. Mummert and approved. A copy is a part hereof.*

Solicitor Battersby also made mention that the East Berlin Area Joint Authority was formed on November 1, 2007, with their organizational meeting, and was certified by the Department of State.

Engineer's Report:

Buchart-Horn Bruce Hulshizer of Buchart-Horn, Inc. informed council the sewer design is nearing completion and have been authorized by the authority to submit the permits to DEP and Buchart-Horn also submitted the paperwork to get re-imbursed for the Act 537 from DEP. They are continuing to review the water and sewer things related to CW Test.

COMMITTEE REPORTS:

Finance Committee:

The motion was made by Gregery Green to draw on the loan for the Act 537 for an interest payment of \$454.95; it was second by Jacque L. Hoffman and approved.

Mr. Green brought before council that the PMRS retirement funds for the police (01-030-3 P) had excess interest which amounts to \$7,828.45; the excess interest rate is 3.12%. *The motion was made by Gregery Green to allocate the distribution of the excess interest back into the Municipal Account; it was second by Jacque L. Hoffman and approved.* The PMRS retirement funds for the municipality (01-030-3 N) had excess interest which amounts to \$9,902.66 the excess interest rate is 3.12%. *The motion was made by Gregery Green*

to allocate the distribution of the excess interest back into the Municipal Account; it was second by Jacque L. Hoffman and approved.

The third item on Mr. Green's agenda was the EMS tax which has been revamped and is now called LST tax, to bring it in line with legislation. Everything has been completely changed, so we have to redo the Ordinance.

The motion was made by Gregery Green to advertise **Ordinance 2007-6**; it was second by Gerald L. Mummert and approved.

The last item for Mr. Green is the proposed budget for 2008. Mr. Gregery Green made a motion to accept the Proposed 2008 budget for the Borough for advertising as follows:

General Fund	Revenue \$395,675.00	Expenses \$395,675.00
Water Fund	Revenue \$176,500.00	Expenses \$176,500.00
Sewer Fund	Revenue \$307,500.00	Expenses \$307,500.00
Refuse Fund	Revenue \$ 94,902.00	Expenses \$ 94,902.00
Highway Aid	Revenue \$ 32,200.00	Expenses \$ 39,000.00

Real Estate 4.000 mills; Per Capita \$5.00; Occupation 5%; Wage Tax ½ of 1%, and Real Estate Transfer ½ of 1%.

The Borough proposes lowering water rates; and proposes raising sewer rates, and refuse rates will increase per our contract. The motion was seconded by Jacque Hoffman. **Motion Carried.** The proposed budget will be available at the Borough Hall for inspection.

Streets Committee: Nothing

Sewer & Water Committee: Information was presented by the solicitor earlier in the meeting.

IT Committee: Nothing

Public Safety: Janet Bollinger had numerous phone calls from residents about odors in town, and she made several calls to Jeff Minksey of DEP and one to Fred Heagy (Air Quality Supervisor) of EPA. Mr. Heagy reported he made a visit to Pennwood on 10/29/07, because of complaints and found nothing wrong. He also visited Tucker Industry on 8/21/07, found violations as far as record keeping. Mr. Minksey and Mr. Heagy recommended that when people are out and the smell the odors, they should contact Mr. Heagy; if before 3 PM, and he will try to come out, the complainant is suppose to stay there and wait. His phone number is 771-4481. Ms. Bollinger then stated she called Leister Furniture in Hanover and spoke with the public safety person there. That person informed Janet they have a permit that meets the standards for the odor/air quality, and they try to be neighbor friendly. Ms. Bollinger's concern is about the odors near the new Park and people would be afraid to let their children out of the cars. She received a call this past week, the person said they were dropping their child off at Zwingli UCC and they had to run into the church because the odor was terrible. She also had another complaint from some joggers, who said they could taste the odor. Ms. Bollinger thinks this issue needs to be addressed.

Mr. Gerald Mummert requested to respond to Ms. Bollinger's comments. He stated Council is concerned with the odors and smells, but the hazardous smells and injurious is a big concern. He presented a letter that the borough manager received from Tucker Industry which is from EPA concerning PA State Code Title 25 Environmental Protection Air Resources. This lists all the things that Tucker Industry has done to comply. He also has a letter from Pennwood Products on the new system they installed to cut down on environmental dangers, and are working with the EPA. These two businesses in the Borough are doing everything they can to keep everything safe.

Planning & Zoning: President Eisenhart entertained a motion to advertise an amendment to the Zoning Ordinance. Mr. Gregery Green made the motion to advertise the amendment to the Zoning Ordinance; it was seconded by Jacque L. Hoffman. A brief discussion was held concerning the changes. The East Berlin Planning Commission recommended the changes to Section 500 of the Zoning Ordinance, to include only one accessory building per lot, one story or 12' height limit, 10 foot set backs, shall not occupy more than 30% of required side or rear yard, and total square footage shall not exceed 160 sq. ft. A copy has been sent the Adams County Planning Commission. **Motion Carried.**

Personnel: Nothing

Parks & Recreation: Mr. Mummert is really downhearted to think that people don't want this park. There is more money coming in, received a check today for \$2,000.00 and we are up to 50 some bricks. The park board is still pushing to break ground in April. The next meeting is tomorrow night 11/8/07.

Unfinished Business: None

New Business: Mr. Gerald Mummert proposed an amendment to Resolution 4-2005-2 to add a public comment period of 20 minutes at the end of the regular meeting, governed by the rules and procedures, this would give other people a chance to speak. Mr. Mummert made the motion to amend Resolution 4-2005-2, and Mr. Green second the motion. A brief discussion was held, and it was the consensus to withdraw the motion and revamp the amendment.

Correspondence:

Adams Co. Borough Assoc. next meeting will be held Nov 19, 2007 @ Pikes Restaurant 6:30-9 PM
Let Hanna know before Nov. 14 for reservations.

Gettysburg/Adams Chamber of Commerce is holding their Annual Meeting & Cocktail Reception Nov 29. Cost is \$40 person

A resignation letter from Joann Van Scyoc was read. She is resigning from the Zoning Hearing Board for personal reasons. *A motion was made by Jacque L. Hoffman, seconded by Gerald L. Mummert to accept her resignation with regret. Motion Carried.*

A letter was received from the East Berlin Community Library Board appointing David Woodward to the Library Board of Trustees. *A motion was made by Gerald L. Mummert to appoint David Woodward to the Library Board, it was seconded by Janet Bollinger. Motion Carried.*

President Eisenhart stated the Fire Hall has only been rented for 3 months and wanted to know if the Council meeting should be held at the Borough Hall again. Borough Manager Mike Thoman said he would check on the availability of the Fire Co. Hall.

President Eisenhart adjourned the meeting at 8:45 PM. The next regular meeting will be held Wednesday, December 5, 2007, at 7:30 PM, at the Fire Company.

Respectfully submitted,
Hannelore Furst, Secretary