

**EAST BERLIN BOROUGH COUNCIL MEETING
MARCH 5, 2008**

The meeting was called to order at 7:30 PM at the East Berlin Fire Company by President David Richards. The meeting opened with the Pledge of Allegiance.

Members Present: President David Richards; Janet Bollinger; Robert Clayton; Charles Eisenhart; Gerald Mummert; Charles Philips; and David Woodward.

Absent: None

Also Present: Mayor Keith Hoffman; Hannelore B. Furst, Secretary; Officer Michael Grim; Lisa Jo Fanelli-Greer, Interim Attorney; Ralph Myers; Earl Bollinger; Donna and Steve Amspacher; Perry and Debbie Shearer; Stephanie Egger; Jane Gulde; Martin Jolin; Joe Noel; Denny and Robin Little; Fred and Pauline Sauter; John Lerew; John Schlaline; Erin James, Evening Sun Reporter; Doug Keller; Mike Wallen Jr.; Nathan Boyer; Rebecca Meixer; Wendy Cashman; Herbert Perkins; Gene Swartz; Eli Mailey; Rosann Hoffman; Phil Keener; Karen and John Cleary; Doris Sabine; Ken Young; and Jan Hoffman

President Richards entertained a motion to approve the minutes of February 6, 2008. Mr. Woodward requested the word interrupted be stricken from the Finance Committee report; where it states: Mrs. Sabine interrupted the Council by asking if Council has had a chance to talk to Hanna about being able to remove her loyalties from the East Berlin Borough Council to the new Borough Council. It was reworded to state Mrs. Sabine asked if Council has had a chance to talk to Hanna about being able to remove her loyalties from the East Berlin Borough Council to the new Borough Council. *On a motion by Mr. Woodward, seconded by Mr. Philips and passed, a correction to February minutes were approved.*

Mr. Young made a suggestion that the minutes be posted a week before meeting, so the citizens can have some input in correcting the minutes. President Richards stated the minutes are distributed a week in advanced of the meeting and it could be posted as a draft copy at the Borough Hall.

On a motion made by Mr. Richards and seconded by Mr. Philips and passed, payment of the bills for the month of February was approved.

A motion was made by Mr. Richards to draw on the loan for the Act 537 loan for an interest payment of \$456.50; it was seconded by Ms. Bollinger and approved.

Mr. Gerald L. Mummert voiced his concerns about discussions that take place at work sessions and what decisions are made. Then at the council meetings council members change their minds and bring the subject up for vote anyway. An example is South Avenue being made a one way. It was decided to wait until Rutter's has completed their renovations and then decide on the one way issue. Mr. Clayton stated he never agreed to wait. He felt this issue needed to be taken care of right away.

President Richards announced we have a guest speaker; Richard Schmoyer of Adams County Planning and Development. Mr. Woodward stated Mr. Schmoyer came to talk about the connectivity between East Berlin and Hamilton Township, and answer any questions or concerns of Beaver Street and the traffic flow with a thru connection to Buttercup Farm.

Richard Schmoyer spoke about the connectivity of Buttercup Farms and the Eastern Adams Comprehensive Plan and the 194 Corridor. He stated that under the PA Municipalities Planning Code that whenever you have a proposed subdivision of 200 or more lots for land development, the township or borough before they can approve the development they must send a copy of the plan to the county planning office for review. They look at zoning, planning questions and transportation issues and they send their recommendation to the municipality to approve the plan, if the plan is next to a neighboring

municipality they send that municipality a copy of their recommendation as well. These recommendations are advisory in nature; they are not enforced by the county planning office. It is just an advisory to the municipalities planning commission. A large scale development plan would have a staff looking over it, not just one person.

Mr. Schmoyer continued with a little background on the development of towns. He stated that before the war the town councils would lay out the streets and sidewalks then sell off lots, this was how American towns grew up until after the war. After the war in the 1950's, there was a huge demand for housing. Town councils no longer laid out new streets. The developers bought up properties and laid out the streets and all street systems were contained in those developments and were not connected to each other. Now, after 50 years, there are two problems. The first problem is the cost of maintaining and improving the transportation system in the United States. The numbers of drivers keep increasing. The problem of the developments not being connected means they all go out onto a main road. So at certain parts of the day the majority of the traffic is on those roads and creating serious congestion. He stated now is the time to start thinking about this. The reason for the congestion is while planning was occurring they did not require developments to connect to each other. We need to be smarter on how we plan now.

The second problem is the energy crisis. The price of gas is continuing to climb. This goes back to connectivity of the developments. He showed a map of the size of the Buttercup Farm project. Mr. Schmoyer stated there were 2 plots reserved for the extension of the streets in Beaver Colony. Mr. Clayton stated there is only 1 now. The other plot now has a house on it. Mr. Clayton showed Mr. Schmoyer on the map which plot has the house on it. Mr. Schmoyer stated as long as there is still an opening there is a possibility of connecting. The Buttercup Farm project will be putting more people on Route 194 if the two developments are not connected. The Borough should try to get some kind of pedestrian connection between Beaver Colony and Buttercup Farm development. Mr. Schmoyer stated that after reviewing the plans for Buttercup Farm development, over all; the Adams County Planning and Development thinks the plans are good because it preserves a lot of open space, it has a mixed use area; a possible medical facility, more commercial area, and it's located next to the Borough.

President Richards stated the major concern is the flow thru the community to avoid the traffic lights. Mr. Philips explained the situation of the Beaver Street cut thru. Mr. Schmoyer stated that was not what he was talking about; but that problem already exists. Mrs. Sabine questioned if that was the street with the 15 MPH signs and speed bumps and she was told yes; so she suggested the speed be enforced. Mr. Schmoyer stated that PENNDOT came out with a PA Traffic Calming Handbook; this has suggestions to slow traffic down. Mr. Philips commented that we could put up signs for no trucks, but that's why we have a police officer too.

Mr. Young commented that people are also using Adams County National Bank entrance to avoid the dangerous intersection of Beaver Street and Rt. 194. Jan Hoffman stated the connectivity report referenced a sidewalk along Rt. 194.

Mr. Schmoyer stated that a full comprehensive plan is coming up where several municipalities have resolutions to request funding from the State Community Affairs Fund; to do a joint municipal comprehensive plan for this eastern Adams area. The funds were approved and are in the budget for the 6 municipalities. The supervisors of Hamilton Township approached Rep. Nichol's office about the 194 corridor and he was able to get them \$15,000.00 from the State Community Affairs Fund.

Mr. Gerald L. Mummert stated the 194 corridor money is appropriated and funded by state, but what Mr. Schmoyer was talking about earlier of connecting the Buttercup Farm development with the Borough properties would be an added cost to the Borough to maintain the roads. The Borough has no way to get the money to maintain these streets. Mr. Mummert also referenced the speed on Rt. 194 and Rt. 234; where council has asked the state on numerous occasions to lower the speed limit; but the state ignores the requests. Mr. Schmoyer suggested sending someone to the Adams County Transportation Planning Organization (ACTPO) meetings to make sure your suggestions are heard. They do not make the decisions about speed limits; PENNDOT does but ACTPO has 2 voting members from PENNDOT. Mr. Schmoyer feels this is a good forum to give your point of view. You will have to be persistent, and it will take time.

Mr. Schmoyer continued that Adams County does not meet the Federal Air Quality Standards for ozone's; the county is out of compliance for the Federal Clean Air Act. As a result, the county receives 2 million dollars every other year thru PENNDOT, and that money can only be used for projects that will help air quality. The two projects the money will be used for is a new bus system in Gettysburg area, and the north Gettysburg Trail project.

He also stated the Joint Municipal County Plan will be starting soon; East Berlin, Hamilton Township, and Abbottstown will be participating and there will be opportunities for public input. Also on the subject of water resources; FEMA and Pennsylvania DCED are looking at the flood plains in Adams County and will be revamping the 1970 flood plains study, and they will be visiting municipalities. Also, Adams County will be doing a complete county wide stormwater management plan. Phase I, will start this spring and continue for 2 years. The Adams County Watershed Alliance is very interested in this; they worked to get DEP and US Geological Survey to put a water monitor in the Conewago Creek in East Berlin; 2 years ago. He suggested asking Charles Skopic and Pat Naugle of the Watershed Alliance to come and give a talk on what the monitor is and why this is important.

Mr. Young asked Mr. Schmoyer why in his reports he never cites the Clean Stream Act. Mr. Schmoyer stated the water management is getting complex and stormwater management is covered under PA Act 167; that act requires county government to do plans to set the standards. To set the standards is very expensive. The next couple of years the county will be looking very closely at setting standards for storm water control.

Constituents Addressing Borough Council

Ken Young, 203 Beaver Street, stated he attended the work session on February 25, 2008; and wanted to clarify that there will be two meetings a month for the Borough Council. He was told he was correct. Mr. Young also stated there were 9 applicants for the Borough Solicitor. He then submitted a request form for information. He wanted to know if the information is correct and if his request is being looked into. He was told yes. Mr. Young then highly recommended Lisa Jo Fanelli-Greer as Borough Solicitor, because a good friend of his recommended her and he supports that recommendation. He has had experience with 17 lawyers in Adams and York Counties and 2 of those lawyers were disbarred. Mr. Young mentioned the flyers he distributed to residents and he stated one name that stands out on the flyers is the former Solicitor Matt Battersby. He stated Matt Battersby refused to put me down for past public testimony because he felt Mr. Young was saying slanderous and liable things, and Mr. Young has not had equal opportunity to have public testimony like everyone else. Mr. Young stated he feels so strongly about Lisa, that Mr. Young is willing to pay for her services for one year. Mr. Young continued, had we had someone like her 20 years ago, to direct the council, we would not be into all these problems that will take awhile to resolve. He submitted some information to the interim solicitor and a private request for her to share with the council.

Mayor's Report: The mayor reported 42 incidents for the month of February 2008.

Solicitor's Report:

Solicitor Lisa Jo Fanelli-Greer requested a formal authorization to send a letter to Solicitor Battersby to request a copy of his file records to be shared with her. She has not talked to Solicitor Battersby about this; she prefers a written letter so she has a paper trail. She is a litigator so she covers herself as well. *A motion was made by Robert Clayton and seconded by Charles Philips to authorize Interim Solicitor Lisa Jo Fanelli-Greer to draw up a letter requesting copies of former Solicitor Battersby's files pertaining to the Borough.* A discussion was held concerning how many years of files would be available. Lisa stated Solicitor Battersby should have files for at least 7 years, they are required by law. **Motion Carried.**

Engineer's Report: None; Borough has no engineer. President Richards stated if there is a need for one, we will advertise for one.

President Richards talked about the discussion at the work session on the malodor reports from Public Safety. President Richards suggested the files on malodor's that are collected by Janet Bollinger as Public Safety chairman would be forwarded to DEP; but Janet would not release names; but keep the date of the complaint, nature of the complaint, time of the complaint and the name of the company or person that the people have a complaint about. He continued that there was a representative of Tucker Industries at the meeting and he spoke and was asked if whether Tucker would participate in an informal listing and discussion of complaint that are received. Mr. Tucker's representative stated they would not and President Richards stated that was unfortunate because that leaves only a confrontational approach with DEP, and we will address these issues at our next council meeting.

President Richards also reported on the working group with the Authority. There were some differences on the agreement. There have been two meetings with John Lerew, Charles Eisenhart, David Woodward and himself and so far they are working quite well. President Richards stated Mr. Lerew suggested there should be a similar group to work on the water and sewer rates. He continued that whatever decisions the working group agrees to; the final decision will still be the Authority's.

President Richards also spoke with the Auditors last week and they indicated they would have their report by the end of March. President Richards continued that the reason working sessions and council meetings take so long is because the working sessions are not recorded, no minutes and no primary decisions are made. To aid in the speed and accuracy of what is conducted the working session will now become another Borough Council meeting. President Richards stated he didn't anticipate a necessity for two council meetings a month, but evidentially he will cancel what use to be the working session. He did not want to change the nights of the meetings. The last Monday of the month, but not the Monday of the same week as the first Wednesday of the month; will be a Borough Council meeting and the first Wednesday is also a Borough Council meeting. President Richard will draft an advertisement for the newspaper stating the change of the meeting and time. *President Richards made a motion that the current working session of the East Berlin Borough Council be restated as the second council meeting for East Berlin Borough. The motion was seconded by David Woodward.* A discussion continued on various subjects as posting the meeting notice on the community board at the square; to continue the "East Berlin News", the Beaver Colony plots that are possible street connections to the Buttercup Farm development and putting signs at the end of town stating the dates and times of town meetings. *The motion was voted on and approved. Motion Carried.*

Committee Reports:

Finance: President Richards reported the Borough received \$75,000.00 from DEP for the partial reimbursement of the Act 537. The remainder of the loan is \$42,734.46. It was discussed to keep making the monthly payment and not pay it off yet.

Streets: Mr. Philips stated there will be a public meeting at a later date in regards to what Richard Schmoyer spoke about at this meeting about the connectivity of the developments. Mr. Philips then discussed the street sweeping of the Borough streets. The streets are scheduled for sweeping the week before Easter.

IT: None

Public Safety: Mrs. Bollinger stated she had a complaint from a resident about a broken shut off valve and the general laborer took care of the problem.

Planning/Zoning: Mr. Clayton read from the minutes of the Planning Commission and stated the Planning Commission recommended WF Hills and Associates swale design of the storm water in front of Ken Young's Property; and Mr. Clayton supports it. Mr. Clayton wants the Borough Council to vote "Yes" on this project and get it going forward. Mr. Clayton mentioned that Phil Keener of the Planning

Commission was in attendance and could answer any question anyone has on the plans. The engineering firm was also present. Martin Jolin of Wm. F. Hill Associates spoke about the design he did for Kenneth and Patricia Young property. The design was for a 200 ft length of swale and they were looking at the erosion and flooding control problems that were pre-existing conditions. The primary concerns for this is regulated by DEP and the plans were submitted to DEP and the plan was approved by them.

Gerald L. Mummert stated the previous Borough Council requested permission to correct the swale on the Young's property and fill in with stones to eliminate the erosion down to the creek and that cost would not have been \$16,000.00. Mr. Young refused to allow the council to correct the problem. The area was filled with excess junk and it needed to be cleaned out. Mr. Mummert asked Mr. Jolin what expenses the \$16,000.00 covered. Mr. Jolin responded, he has an itemized break down of the expenses. Mr. Young responded to Mr. Mummert's statement of not allowing council on his property. He said he did allow them on his property and they saw the damage and the gas line. Mr. Young continued, David Richards was a witness to the fact. Mr. Young stated what he didn't want the council to do, was come in with a big truck and throw stones around and that was the solution to the problem. He wanted a professional opinion to do it right, so he didn't have to continue as he has been doing by throwing stones, branches, old tires, to build up dams to stop the problem created by developers.

Mr. Mummert and Mr. Woodward checked the design plans, and Mr. Mummert asked the engineer some more questions about the stones and the rip rap, and the flow of the water. Mr. Philips stated the Planning Commission voted to accept the design and he made a motion to accept the design and get this process moving. Mr. Mummert questioned Mr. Philips if he didn't want to discuss the matter anymore.

Mr. Keener wanted to clarify, the Planning Commission did accept the Ken Young Swale Design as presented by William F. Hill, but they did not make any decisions on the financial responsibility nor did the Planning Commission make any recommendations. Mr. Woodward recommended this be tabled until the next meeting, so they can discuss what the Borough is willing to do about it. *Mr. Woodward made the motion to table Ken Young swale problem. Charles Eisenhart seconded the motion. All voted yes;* **Motion Carried.** It was referenced that the September 5, 2007 minutes stated what action the Borough would take on the swale problem.

Personnel: Mr. Philips reported they are interviewing for the Borough Solicitor and there were 9 applicants and they are conducting interviews. He also reported 6 applicants for Borough Manager. Mr. Cleary requested if he could submit his application, he was declined because of the deadline for submitting applications had past.

Park & Recreation: None

A citizen of the Borough asked what the status of Park and Rec. was. Mr. Keener responded they have submitted the plans to DCED, and they anticipate breaking ground this summer and the skate park is in Phase I. It was expressed the children should be involved in the fundraising also. Solicitor Fanelli-Greer reported there are grants available for the skate parks and she has worked to secure one for another client.

Herb Perkins of Water Street asked if sidewalks were going to be required for Water Street and he was told they would be. He also questioned who would be responsible for paying for the improvement. He was told the homeowners would be paying for the curbs and sidewalks. President Richards wanted to explain further that because the street will be torn up for replacing the sewer line, there will be less cost to the Borough to do it while the street work is being done.

Unfinished Business: *A motion was made by President Richards for the approval of the Borough to publish the two ordinances # 2008-1 and 2008-2 which are identical to the Authority's. The motion was seconded by Gerald L. Mummert. It was voted on and approved.* **Motion Carried.**

Correspondence:

- Adams County Borough Assn. Meeting will be held March 17, 2008 at 6:15 PM, at the Pike's Restaurant. Let Hanna know who will be attending.
- Chesapeake Bay Water Quality from Katherine McGinty on a watershed meeting February 20, 2008.
- Ken Young gave Mr. Richards a series of flyers and public testimony and a complaint for the Office of Homeland Security.
- Received a letter from Tucker Industry's attorney and they reported they have met all of DEP requirements. Mr. Gerald L. Mummert had a request from Mr. Tucker that the letter would be read to the people in attendance at the meeting. **A copy is made a part hereof.**
- Mr. Schlaline presented a packet with a series of suggestions.

Mr. Richards asked if there were any questions from the audience. Mr. Young asked about the storage tanks at Rutter's. President Richards stated he and Mr. Woodward checked with the foreman on the job and was told the filtering system was delayed so they cannot finish that part of the job. When it is installed it will have to be inspected by the Middle Department Inspection Agency.

Mrs. Cleary questioned if we had a Zoning Enforcement Officer and how do you continue to build in town. President Richards anticipates getting one in the near future. He stated he has looked at a building permit that he rejected it two times because the set backs were insufficient. Mrs. Cleary questioned about Rutter's approvals and inspections. She was told the MDIA does the inspections and puts their stamp on and will do all the required inspections.

Having no other business President Richards asked for a motion to adjourn. *Mr. Philips made the motion to adjourn and Mr. Clayton seconded the motion.* Meeting was adjourned at 9:55 PM.

Respectfully Submitted

Hanelore B. Furst
Borough Secretary