

EAST BERLIN BOROUGH COUNCIL

128 Water Street
East Berlin, PA 17316

AUGUST 25, 2008

The second monthly meeting of the East Berlin Borough Council was held August 25, 2008 at the East Berlin Borough Hall. The meeting was opened with the Pledge of Allegiance at 7:30 PM.

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

Members Absent: Mayor Keith Hoffman; Janet Bollinger

Also Present: Solicitor Tim Shultis; Borough Manager Bill Starry; Secretary/Treasurer, Hannelore Furst; Ken Young; Doris Sabine; Bev Jadus; Bill Powell; John Schlaline; Sue Hess; Gregory Morehead; Monica Clayton; Jan Hoffman, Karen Cleary, and John Cleary,

President Richards wanted the August 6th minutes to reflect the following changes:

President Richards stated he sent a letter to Mr. Gehr of the DEP ~~came from the same material as Mr. James Sneed's letter.~~ President Richards did not want to discuss it." ~~President Richards didn't want to discuss the letter from Mr. Gehr because Mr. Sneed's letter was withdrawn so President Richards proposed to simply cross that out because it came from the same material as Mr. James Sneed's letter.~~

Dave Woodward requested that on Page 2, third paragraph, it should state Mr. Mummert read a letter from Joanne Eisenhart; not the Community Center, stating that Mr. Tucker is a very good friend of the Community Center and has supported their programs. *Robert Clayton made the motion to accept the changes to the minutes. The motion was seconded by Charles Philips. Motion Carried with all voting in favor of.*

President Richards asked if anyone had any questions about the bills for the remainder of August in the amount of \$68,811.50. He mentioned the bulk of the bills were the insurance premium for the year. It was decided to make 3 or 4 installment payments for the insurance bill. *Robert Clayton made the motion to make 3 or 4 payments for the insurance bill. Charles Philips seconded the motion.*

Motion Carried with all voting in favor of.

Charles Philips questioned the Nextel bill as to how many phones there are and who has phones. It was stated Mike Wallen, Hanna Furst, and Officer Grim are the only ones that have Borough cell phones. Gerald Mummert questioned the Miller & Shultis' bill for the solicitor's fees. The Borough was charged over \$2,000 again this month and the bills are getting excessively high. Mr. Mummert feels the Council has a right to know what all the phone calls and emails to Solicitor Shultis are about. Mr. Mummert also stated that this Council was emphatic about having documentation on what the money is being spent for and there has been a dramatic increase in lawyer fees. President Richards stated this was a legitimate question and he agreed. After the discussion on the telephone calls, President Richards decided the chairman of the committees should call the council president and get his feed back before calling the solicitor. This would make them more accountable for what the calls are about.

The next item Mr. Mummert discussed was whether the Council ever voted to hire Mr. Shultis as the Borough Solicitor, his wages or if there would be a retainer fee. President Richards stated he did not recall voting on the solicitor. The section of the minutes of April 2, 2008 under Solicitor's Report was read, which stated the solicitor was introduced and he presented his fee letter. There was no mention of a vote being taken.

A motion was made by Robert Clayton to accept Timothy Shultis as solicitor as of April 2, 2008. David Woodward seconded the motion. Motion Carried with all voting in favor of.

Constituents Addressing Borough Council

Ken Young, 203 Beaver Street, handed out a flyer on Homeland Security. Mr. Young wanted Solicitor Shultis to be here tonight because he had a lot of questions for him. Mr. Young mentioned a Mr. Hertz of the Attorney General's office, who is with the criminal protective unit. Mr. Young stated there is a cover up by DEP concerning the AMP situation. He stated there are a lot of things DEP has been negligent on for years as far as doing something to protect our environment in East Berlin.

Mr. Young continued that Ernie Preate ran a corrupt unit when he was Attorney General. The same people employed under Ernie Preate are still employed and working under Tom Corbit. Mr. Young stated the citizens of East Berlin should be concerned about homeland security and Glenn Fine needs to be involved and investigating. Mr. Young shared there is a FBI file on him since 1990. He has continued calling the FBI and complaining about the state and local government. He stated he has been personally victimized by the old establishment, and we need a further investigation beyond DEP and the Attorney General's Office. President Richards asked Mr. Young exactly what he was requesting. Mr. Young stated he was requesting a face letter from Mr. Richards to address the issues he has been a key witness of. He wants President Richards to fax a sheet to Glenn A. Fine requesting a thorough review of complaint #0710253.

Doris Sabine, 504 W. King Street, has several questions that she would like answered. She wanted to know the procedure for the service agreement for the Historical Society for Colonial Day. What does she have to do to obtain a handicap parking sign in front of her house? When are they going to fix Ken Young's erosion? Did Mr. Richard's receive a reply from Mr. Gehr? Why isn't South Ave one way yet and have the people that live in that vicinity of South Ave. been involved in the decision? And she is concerned about the liability of the skateboarders.

Solicitor Shultis arrived at 8:15 PM.

Mrs. Sabine directed her next question at Solicitor Shultis. She would like to know if she can sue the old and new council because of the signs going up all over town and the truck parking. They have not enforced the ordinances concerning this. She is annoyed about the tractor trailer trucks parking on the Borough streets, and Council has not done the housekeeping they should be doing. Solicitor Shultis stated he did not feel comfortable answering these questions.

Mayor's Report:

No report due to the Mayor's absence.

Solicitor's Report:

Solicitor Shultis stated the Realty Transfer Tax Ordinance # 2008-4 was duly advertised. This ordinance allows the Department of Revenue to enforce the collection of this tax. *The motion was made by Charles Eisenhart and seconded by Robert Clayton to adopt Ordinance # 2008-4 The Realty Transfer Tax Ordinance.* **With all voting in favor; Motion Carried.**

Solicitor Shultis second issue involves Mr. Tucker and the temporary skateboard park draft. He forwarded the draft to Mr. Tucker's lawyer, Mr. Shorb. There were some issues to discuss; such as: what are the hours of operation; What kind of safety equipment is required; Is it limited to Borough residents; and what are the limits of liability. There was a discussion on the liability insurance.

John Schlaline of Abbottstown Street stated it boggles his mind concerning the situation with the skateboarders and Tucker's and why the Borough Council would even consider assuming the liability from Tucker. Mr. Tucker is making a private donation, he capitalized on the publicity of the last meeting; therefore, he should be 100% liable as far as Mr. Schlaline is concerned. He stated Borough Council should not give this any special treatment.

President Richards stated that there is zero increase in liability as far as the insurance; it is covered under our current insurance. What needs to be addressed is who will be using the skate park,

policing the area and trash removal. It was suggested to put up signs to skate at your own risk, and parents should be accountable for their children.

Sue Hess, 508 Beaver street, stated her objections to the temporary skate park on Tucker's property because the skateboarders have ruined the railing at Trinity Church and the picnic tables at the Community Center. She continued that she has researched the skate park in Gettysburg, and she could list every injury that could happen.

Greg Morehead of Water Street also stated his objections to the skate park. He stated the Borough is putting their neck on the line.

Solicitor Shultis addressed the liability issue. He stated generally speaking the Borough is immune to lawsuits. What makes this different is that the Borough is going on to private property. There is nothing controlling the kids, and there is a lot to consider before signing the agreement.

Doris Sabine stated she was in touch with a Vicki Corbet, who works for United Way and the Gettysburg Alternative Sports Association, and Mrs. Sabine wanted to know if Vicki Corbet could come and talk to Borough Council. Mr. Mummert replied he has called her but she has not returned his call. Mr. Mummert also stated the lease could also be dissolved if the property is not used correctly. It was decided to table the decision for now.

Engineer's Report:

Craig Zack of KPI stated he met with Wm. F Hill Assoc. and reviewed the Ken Young swale design plan and found them technically sound. President Richards questioned if the same work could be done cheaper. Mr. Zack stated he did not look into that part of it, he just reviewed the proposal.

Charles Philips asked what the total expenses for the project were. Mr. Young stated the total expenses for the design is approximately \$17, 000. It was mentioned that besides the \$17,000, there would be other fees. Mr. Young stated his wife said they are not asking the Borough to pay for the lawyer or engineering fees. They want the safety and security of knowing the excess water the Borough allowed after they filled in the storm water hole across from their home that had made increased damage to the gas line will be fixed. Mr. Young became frustrated and loud. He then apologized for his outburst.

Mr. Eisenhart stated he previously brought an agreement for Mr. Young to sign requesting permission for the workers to come on his property to do the repairs. Mr. Young would not sign the agreement. Mr. Young stated he did not remember this.

Jan Hoffman stated Mr. Young's frustration is warranted. She asked if the DEP plans would have to be changed, and would there be a 4 or 5 month delay. Mr. Zack stated it would be hard to speculate.

President Richards suggested the work should be done to guard the pipe and to prevent further erosion. He proposed that Mr. Zack consider the construction of the engineering plans that would be the minimum required to solve the problem. *A motion was made by Robert Clayton to modify the plans to make it more economically cost effective using the same plans. The motion was seconded by David Richards. Motion Carried.*

Ken Young informed President Richards his home was built on wet lands, and he should do the same thing as Past President Jacque Hoffman did and get the State or Borough to fix his property.

Borough Manager's Report:

Bill Starry stated that the piano keys crosswalks at the square and Locust Street has been completed. The front door at the office building has been repaired and winterized. Four of the overhead garage doors have been replaced.

Bill Starry received a quote for the moving of the pedestrian poles at the square. He stated he wasn't sure we need the poles because they only change the light, and does not give an indication for pedestrian to cross the street. Charles Philips questioned if it was required to have the "Do not walk" sign and if Mr. Starry had checked on that. Mr. Starry stated he had not pursued that avenue yet.

Zoning Hearing Board:

Karen Cleary reported on the organizational meeting of the Zoning Hearing Board, which was held August 12, 2008 at 7 PM. They elected Jan Hoffman as Chairman, Sue Hess as Vice Chairman and Karen Cleary as Secretary. They have decided on a 5 member board with no alternates. They voted to hire Deb Zepp as the stenographer as needed basis and have decided to hire a new solicitor. Meetings will be as needed. They are working on the Frazier property. It was discussed to adopt by resolution the members of the board, and this should be done at the next meeting. President Richards informed Ms. Cleary they would have to adopt an ordinance to change the board to a five member with no alternatives. President Richards stated he would draft the ordinance and let Solicitor Shultis go over it.

Mrs. Sabine questioned who the Zoning Officer is. President Richards stated he is by default. She wanted to know who will be checking on the signs at the businesses. Mr. Woodward stated that some of the signs are not legal. A discussion continued, concerning the correct sizes and whether they are within the regulations. It was suggested approaching them and remind them of the regulations, or send them a letter from Borough Council reminding them of what the ordinance states and what is expected of them to correct it.

It was discussed that Adams County Planning and Development volunteered to go over our ordinances. Mr. Woodward stated he had talked to Richard Schmoyer of Adams County Planning and Development earlier in the day and he said it was approved. President Richards stated we do not have a signed contract with Adams County Planning and Development and the Borough has not been contacted yet. He had also asked that the Borough be considered under both the Planning and Zoning.

Robert Clayton stated the Planning and Zoning Committee will be meeting to go over the ordinances. That committee consists of Chairman Clayton, Gerald L. Mummert, Janet Bollinger, and Charles Philips.

Mrs. Sabine asked what she supposed to do about the 11,000 lb. vehicles parked in front of her house. She was told to call the state or local police. She did not agree, she stated there is a town ordinance against it. Mr. Clayton responded we can't do a thing about it. She then questioned why there are signs prohibiting it in town. Mr. Clayton said the signs are there to try and convince them not to park there. Jan Hoffman stated they will park junk cars in front of her house so they can't park there.

Mrs. Sabine then questioned if the Council can do anything about the boiler across from her home. President Richards stated probably not; and continued to explain. He stated he has only seen it smoking one time this year. The obstruction of the sidewalk is a difficult problem since the Borough doesn't own the sidewalk.

Solicitor Shultis stated there is another avenue to check. From a zoning perspective; that is; if the cooker is considered a structure then he has set backs to abide by. It was questioned whether if it is on wheels is it considered a structure. President Richards suggested talking to him and asking him to move it. It was stated this has been done before.

Committee Reports:

Finance: President Richards stated he has written Don Isabella of York Waste Disposal about the fuel surcharges and he will be meeting with Mr. Isabella soon. He stated the Borough will be receiving a \$2 residential fee starting in September and we don't cover the fuel surcharge with the current rate so he proposes a \$5 rate increase. He continued that he has checked the trash rate in other communities and the Borough's is relatively inexpensive. President Richards introduced Resolution #8-2008-3 to raise the Refuse rates for residential customers to \$40.00 a quarter, starting September 1, 2008. *Charles Eisenhart made the motion to enact Resolution # 8-2008-3 and Charles Philips seconded the motion with no discussion. Motion Carried.* A copy is made a part hereof.

President Richards proposed changing the Refuse Ordinance # 2008-5. This ordinance would amend Ordinance #2006-2 of Chapter 35 5B by adding condition 7 & 8, changing the definitions of commercial customer and residential customer. It also corrects the cite in Chapter 37-5 for number 4 & 5, and changing Chapter 37-5B to also reflect Ordinance 2006-2. A discussion ensued concerning whether tree branches will be picked up. This Ordinance # 2008-5 was tabled for a later date.

Streets: Charles Philips reported the piano key crosswalks are all done and there are a few curbs to do yet.

IT: Robert Clayton reported he has been checking with different manufactures on some recording media that could be transmitted to digital form on the computer.

Public Safety: None

Planning/Zoning: None

Personnel: Charles Philips reported the Commissioners have approved the Borough's request for planning and basic zoning enforcement assistance. Robert Thaeler would be here sometime.

Parks/Recreation: Gerald L. Mummert reported the Park & Recreation is in the process to get \$25,000 pledge from Nell's Shur-fine store, this is a matching pledge. Nancy Hanson is also doing a sketch of the park to be displayed at Colonial Day. It was suggested that it could be displayed at Nell's Shur-fine.

Unfinished Business:

President Richards proposed Resolution #8-2008-4 to send to the Authority. Council read the resolution and they discussed it. There is background information, a section on Borough request for Executive Session, a section on the Borough's response. There was brief discussion about the changes he made. Gerald L. Mummert questioned if the Council voted on and approved the changes President Richards made. He then stated the authority will go over it before accepting it. Robert Clayton stated he gave out the packet to review when President Richards was absent. Charles Eisenhart questioned the documents are not the same ones they were talking about. A motion was made by Robert Clayton and seconded by Charles Philips to adopt Resolution # 8-2008-4 with the change on page 2 Section B. the word President changed to Chairman. There were 4-Yes', 1-Nay, and 1-Abstain. A copy is made a part hereof.

Because it was getting late President Richards suggested sitting on the correspondence until the next meeting.

Correspondence:

- Received a resignation letter from Mike Thoman resigning as Emergency Management coordinator.
- PA Weed and Seed Program
- Received an email from Adams Co. Dept of Emergency Services concerning appointment of a Municipal Emergency Service Coordinator
- Received a letter from Adams Co. SPCA concerning a raffle.
- Tim Shultis faxed a copy of the agreement for the use of Tucker Parking lot.
- Reminder for the Borough Assn meeting Sept. 15th @ 6 PM, the Pikes's Restaurant
- Received a letter from Federal Emergency Management Agency concerning flood hazard
- Received copies of 2 letters sent to businesses from Middle Dept Inspection Agency-Boro also sent letter to Kellett Management.
- Received an email from Don Isabella of York Waste Disposal
- Received notice of PSAB Fall Conference 10/17-10/19 in Gettysburg

Having nothing else to discuss, *Charles Eisenhart made the motion to adjourn and Robert Clayton seconded the motion. All voted in favor of adjourning. Motion Carried.*

Having no further business, the meeting was adjourned at 10:30 PM.

Respectfully submitted,
Hannelore B. Furst, Secretary/Treasurer of Borough Council