

EAST BERLIN BOROUGH COUNCIL

128 Water Street  
East Berlin, PA 17316

October 27, 2008

The second monthly meeting of the East Berlin Borough Council was held October 27, 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; Janet Bollinger; Robert Clayton; Charles Eisenhart; David Woodward; Charles Philips

**Members Absent:** None

**Also Present:** Mayor Keith Hoffman; Borough Manager Bill Starry; Secretary/Treasurer, Hannelore Furst; Craig Zack of KPI Technology; Philip Keener; Philip Blaker; Earl Bollinger; Curvin Dennis; Raymond and Carla Hoffman; Doris Sabine; Alex Chiaruttini; Bev Jadus; Bill Powell; Carole Mayer; Bryan Kapp; Allen and Steph Egger; Ryan Rife; Mary Beth and Jim Levan; Karen and John Cleary; Rosann Hoffman; Charles Krall; Freda Lennon; Maureen Dunlap; Sue Hess; Jan Hoffman; Stan and Sherry Eyster; John Schlaline; Ken and Pat Young; Stan and Andrea Hollenbaugh; Wendy Cashman; Lin and Patricia Hammann, and Erin James of the Evening Sun.

**Correction to the Minutes:**

President Richards had some corrections to the minutes of October 1, 2008. He stated under **Unfinished Business:** The sentence should read, President Richards stated that the copy of the Authority's incomplete agreement between the Borough and the Authority is now in the Borough files and the NIMS form has been submitted to Adams County. Another correction is under **Correspondence** should read: A letter from Mr. Richards to Andrew Miller on the proposed extension of the contractors bid for the construction of the sewer plant. *Charles Philips made the motion to accept the minutes of October 1, 2008. The motion was seconded by Robert Clayton. Motion Carried with all voting in favor of.*

*Janet Bollinger made the motion to approve the payment of the bills for the end of October in the amount of \$9,945.75. Charles Philips seconded the motion. Motion Carried with all votes in favor of.*

**Constituents Addressing Borough Council**

**Ken Young**, 203 Beaver Street, asked several questions of council. He wanted to know if the Borough wrote the letter to DEP about the pollution under the old TYCO Plant. He was told, not yet. Mr. Young also wanted to know if several members of council had contacted either by mail or fax Mr. Glenn A. Fine or Mr. James Reeder. Some members had not contacted either Mr. Fine or Mr. Reeder. He also wanted to know where the Borough stands on the recommendation to accept Joe Grim, East Berlin Excavating proposal to correct his storm water drainage problem. President Richards stated that would be addressed when Solicitor Shultis gets here.

**Carol Mayer**, 529 West King Street, stated she is a member of Our Town East Berlin, Inc. She introduced the proposed Toxic Trespass Ordinance and hopes council will consider it. She handed out a copy of the proposed ordinance to the council members. Mrs. Mayer told why she felt so strongly about the ordinance. President Richards stated the council and the solicitor will review it, and the council will take this matter up at a later date.

**Doris Sabine**, 504 West King St, stated is outraged that over 16 tons of air pollutants were emitted in our town in 2007. She decided to write a letter to Mr. Gehr concerning Mr. Tucker submitting an application to PA Department of Environmental Protection (DEP) for approval to build three spray booths. She stated in the letter the booths have been functioning for two plus years, without plan approved or operating permits from DEP. Mrs. Sabine is also asking DEP not to give approval or issue an operating permit for Mr. Tucker's second building (the old TYCO building) until Mr. Tucker is truly and certifiably in full compliance with Federal State and local government regulations. She invited the members of the

audience to use her letter and sign their name and encouraged them to send it to Mr. Gehr; and if they wanted to they could give it to her and she would mail it in for them. She also stated she has more information if anyone was interested such as phone numbers and address if they needed help in understanding the information.

Rosann Hoffman, 205 Locust Street, spoke on behalf of the EBSK8S. She read a letter thanking council for their half hearted attempt at looking out for the youth of the town. When Mr. Tucker offered them the use of his parking lot temporarily until the Park was built. She stated she was waiting to see what the new council's plans were for the youth. She also stated she was disappointed in the council and the community that they could not separate their personal issues and grudges against Mr. Tucker. The youth will now be skating as a new chartered group as Venturing Crew 360 of the Boy Scouts of America.

Phil Blaker, President of the East Berlin Historical and Preservation Society thanked the council for picking up the cost of the clean up and help the town has done for the Historical Society during Colonial Day. Mr. Blaker stated this town is a special town, and there are five buildings in this town that are historically significant to the town, the country, and the state. In the coming year they are working on giving more back to the town. President Richards stated the forgiveness of expense may only be for this year.

John Schlaline, 118 Abbottstown Street, wanted to expound on Mrs. Sabine and Mrs. Mayers presentation in terms of the ordinance that has been proposed. He wanted to clear up any of the rumors but he didn't want to give these people anymore power. He invited the East Berlin Tax payers association to join their group. He continued that there have been a lot of people doing a lot of research at DEP. Finding the information at DEP was like going on a treasure hunt a core group took a stand. This issue is not against Bernie Tucker. Mr. Schlaline mentioned he has met Mr. Tucker and he is a nice person, but in his case he has been operating and then asking for permits, he has putting the cart before the horse. Because of the structure of our system this has been happening. We should start protecting ourselves by local ordinances while DEP attempts to do their job we need this ordinance in the interim. The residents should set the standards for the town not the corporations. Changes need to be made. Citizens have the right to assert their rights in the interim. He wants to expedite this ordinance.

Phil Keener, Chairman of the Park and Recreation Board, stated with the approval to move forward with Phase 1; the next step is for bidding the engineering services assistance with construction and administration. He is bringing it to Borough Council for their approval. *Mr. Clayton made the motion to advertise to acquire bids. Charles Philips seconded the motion. Motion Carried with all voting in favor of.* Mr. Keener asked if the Borough Manager was familiar with the bidding process and would like his assistance. Mr. Keener also invited the Council members and the audience to the ground breaking ceremony Sunday, November 2, 2008 at 2 PM, with the rain date of November 9, 2008.

**Engineer's Report:** Craig Zack of KPI reported on the structural review of the retaining wall at the East Berlin Community Center. He reported the wall is not repairable due to the severe extent of the cracking and the non-existence of horizontal and vertical steel reinforcement. The estimated cost to remove and reconstruct the wall is a ball park figure of \$18,370.50. President Richards suggested submitting this quote to the community center. Mr. Zack then reported on a preliminary recommendation for the flood plain ordinance. His office reviewed the draft flood plain management ordinance that President Richards provided to them. The document contained highlighted portions, where the Borough must make specific decisions on what to include or not to include in it. He stated the Borough should review and consider the recommendations before adopting the revised Flood plain Management Ordinance. Mr. Zack stated there is a program the council could apply for to get a 50% re-imbusement. President Richards stated the Borough must meet the federal requirements by January 2009. He requested that council read to discuss at next meeting.

**Mayor's Report:** The mayor entertained a motion to purchase a police car for approximately \$30,000.00. They would purchase the car from Warnock for \$23,000.00 and install the equipment elsewhere for around \$7,000.00. The present car is seven years old and has 90,000 miles on it. *After no further discussion, Charles Philips made the motion to purchase a 2008 Dodge Charger police car and Robert Clayton seconded the motion. Motion Carried with all voting in favor of.* Delivery date is set for

November 17, 2008. The mayor then reported that Officer Grim went for firing certification for his pistol (9mm); they recommended he get a new handgun. The 9mm is 20 years old. The new handgun will cost approximately \$500.00 and it is 40 caliber Glock. The old pistol will be sold to a dealer to reduce the cost of the new one and this would also eliminate a lot of paperwork involved in selling a handgun. *Charles Philips made the motion authorizing the sale of the old pistol to a dealer and to advertise the sale of the pistol. Robert Clayton seconded the motion. There was no more discussion. Motion Carried with all voting in favor of.* The Mayor reported Trick or Treat night is October 31, 2008 from 6pm-8pm; and they could use help at the intersections.

**Borough Manager's Report:** Mr. Starry asked council to consider a doggy waste ordinance. He said there is nothing to support it and would like to post it. The next item he spoke about was the budget. He has completed the proposed 2009 budget and distributed copies to the council members. If there are no changes then they can be approved at the next meeting. President Richards stated he has two things to address. He would like to remove the part time officer because he doesn't think the Borough can afford it. The second thing to address is that the Borough should consider a 5% reduction to the budget of a possible recession. President Richards suggested council think about these two items when they review the budget for the next meeting.

**Committee Reports:**

**Finance:** President Richards stated that because of refuse costs we would be cashing in a portion of the Refuse CD. We will need the cash to pay the increase costs of refuse rates. It was decided to put \$15,000.00 of the Refuse CD into the refuse checking account. *President Richards made a motion to transfer \$15,000.00 from the Refuse CD to its working capital fund, Robert Clayton seconded the motion. Motion Carried with all voting in favor of.*

President Richards asked council to approve the changes to the personnel policy. The changes were done months ago but never voted on. Mr. Clayton made the motion to accept the changes to the personnel policy and Mr. Philips seconded the motion. **Motion Carried** with all voting in favor of.

Solicitor Shultis arrived at 8:30 PM and President Richards spoke about the Flood Plain Management Ordinance and the Toxic Trespass Ordinance that he would like the Solicitor to review.

**Solicitor's Report:** Solicitor Shultis reported that at the last meeting he was given a zoning amendment to prepare the legal advertisement for the amendment, he altered the text slightly. Solicitor Shultis wanted to know when council wanted hold the public hearing; it can be held at a regular meeting, and you also need a date to adopt the zoning amendment. You will have to give Adams County Planning and Development thirty days to approve. President Richards proposed the last meeting in December or the first meeting in January. It was decided December 29, 2008 will be scheduled for the hearing at 7:30 PM and January 7, 2009 meeting to adopt the amendment.

President Richards stated he will propose next years meeting time be 7 PM and the dates as the first and the third Wednesday of the month.

**Committee Reports Continued:**

**Streets:** None

**IT:** None

**Public Safety:** None

**Planning/Zoning:** Solicitor discussed this earlier.

**Personnel:** None

**Park/Rec:** Phil Keener discussed this earlier

**Unfinished Business:** President Richards handed out a spreadsheet on Charitable Contributions about previous organizations that the Borough had contributed to. He continued to discuss. He stated there are a series of problems, most were significant increases. Several residents spoke about what organization

they felt were important to them. The discussion continued, with the consensus to support our own citizen and/or organizations. President Richards stated they would address this prior to the budget adoption at the next meeting.

The next item for discussion was the selection of the new council member, replacing Gerald L. Mummert. Residents interested in being a council member were Karen Cleary, Andrew Raymond, Charles Krall, Victoria Mason, and Curvin Dennis. President Richards read the applications. Mr. Young stated he thinks the determining factor should be how much they are involved and whether they come to council meetings. President Richards asked Charles Krall, Karen Cleary, and Curvin Dennis to state why they were interested in being a council member. Each gave a few minutes of information to the council about themselves. Solicitor Shultis suggested the person would four positive votes and would be appointed by Resolution. *A motion was made by Charles Philips and seconded by Robert Clayton to appoint Karen Cleary to the vacant council seat by Resolution # 10-2008-5.* The Mayor counted the votes. The **Motion Carried** with 4 voting in favor of Karen Cleary and 2 voting for another selection. Karen Cleary was appointed the new council member and will be sworn in at the November 5<sup>th</sup> meeting. There was a discussion on whether she should resign from Zoning Hearing Board. Karen Cleary verbally resigned from the Zoning Hearing Board as of October 27, 2008. *Mr. Philips made a motion to accept Mrs. Cleary resignation from the Zoning Hearing Board and it was seconded by Robert Clayton. Motion Carried.* David Woodward thanked Charles Krall and Curvin Dennis for applying.

President Richards stated he distributed 2 proposed letters for review for the next meeting. One is for the Authority and one for DEP, these letters are not public and are for the councils use only. He proposed any changes, additions, or corrections to those letters should be given to him by Monday.

President Richards also has the 2 Ordinances Vetoed by the Mayor Hoffman. The Mayor vetoed Ordinance 2008-6 (On-Street Handicapped Parking) and Ordinance 2008-7 (Making South Ave One Way).

Mayor Hoffman explained his reason for the veto of Ordinance 2008-6 as he understood it, usually handicapped parking is granted for businesses, churches and organizations, not individual. A copy of the veto is made a part hereof. A discussion continued. A motion was made to over ride the veto by David Richards and David Woodward seconded the motion. Solicitor Shultis stated you need a majority plus 1 to over ride the veto. A roll call vote was taken to over ride the veto. The results are as follows: Janet Bollinger-Yes; Robert Clayton-yes; Charles Eisenhart-no; David Woodward-yes; Charles Philips-yes; Davis Richards-yes. The motion to over ride the veto passed with 5 yes' to 1 no.

The Mayor also explained his reason for the veto of Ordinance 2008-7 and he explained that he and Officer Grim have done a traffic study, and he feels there is no reason for the ordinance. A copy of his veto letter is made a part hereof. This ordinance remained vetoed. It was discussed to do another traffic study on November 7, 2008 to count the traffic traveling in and out of South Avenue for the one day from 4 AM until 4:30 PM. President Richards stated he would make a sign up sheet for anyone interested in helping with the survey. The sheet will be at the Borough office tomorrow afternoon.

Solicitor Shultis reported he has talked to the Young's attorney Mr. Eastman about the storm water drainage problem, and he suggested their lawyer make a proposal for a dollar amount, so the Borough can consider the offer.

Having no further business to discuss Charles Philips made the motion to adjourn the meeting and Robert Clayton seconded the motion. **Motion Carried.** The meeting adjourned at 955 PM.

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