

EAST BERLIN BOROUGH COUNCIL
128 Water Street
East Berlin, PA 17316

August 19, 2009

The second monthly meeting of the East Berlin Borough Council was held August 19, 2009 at the East Berlin Borough Hall. The meeting was opened with the Pledge of Allegiance at 7:00 PM.

Members Present: President David Richards; Charles Eisenhart; Robert Clayton; Janet Bollinger; David Woodward; Charles Philips; and Doris Sabine

Members Absent: None

Also Present: Secretary/Treasurer Darlene McArthur; Solicitor Timothy Shultis; Attorney Frank Leber; Attorney Jonathan Cox; John Schlaline; Andrew Raymond; Frank Schuhart; Freda Lennon; J. VanWyk; Dan Libertore; Donald Hull; Tim Stonesifer, Reporter for The Evening Sun; Ronald Spangler; and Robbie Teal

Correction to the Minutes: Correction to the special meeting minutes of July 27, 2009: both motions of this meeting were made by Janet Bollinger and seconded by Robert Clayton. *A motion to accept the minutes as corrected was made by Charles Philips with a second by Robert Clayton. Motion carried with all voting in favor.* The minutes of the meeting of August 4, 2009 were reviewed. *A motion to approve the minutes was made by Janet Bollinger; seconded by Robert Clayton. Motion approved with all in favor.* A correction to the special meeting minutes of August 10, 2009 is to replace 'Debt Collection Act' with 'Local Government Unit Debt Act' in paragraphs four and six. *A motion to approve the minutes of August 10, 2009 as corrected was made by Robert Clayton; seconded by Doris Sabine. Motion approved with all voting in favor.*

Payment of Bills: President Richards reviewed a summary of bills for the end of August totaling \$30,159.50. It was noted that the semi-annual insurance premium currently due to Kunkle Insurance is a marked reduction from last year. President Richards commented on the invoice from Buchanan, Ingersoll & Rooney for legal services regarding issues with Tucker Industries and proposed to discontinue the contract with Attorney Eugene Dice. *A motion was made by Charles Philips pay the bills; seconded by Robert Clayton. Motion carried with all voting in favor.*

Constituents Addressing Borough Council: On the subject of the recent letter to the residents of East Berlin concerning the Borough's guarantee of the Sewer Authority's Pennvest loan, Mr. Donald Hull inquired if this guarantee would be in agreement with the adjoining municipalities of Hamilton and Reading. President Richards responded that East Berlin Borough alone, as the principle municipality, would guarantee the loan and that Hamilton and Reading Townships currently have no connections in this project. It was also noted that a smaller facility was estimated to cost between five (5) and six (6) million dollars and would not support nearby townships. Additionally, it is unlikely that the project would have been awarded H2O grant funding or the Pennvest low interest loan.

John Schlaline inquired if the grant funding was contingent upon acceptance of the Pennvest loan. Charles Eisenhart stated that the financing opportunities are based on the larger facility with regional capability, and that new housing construction would pay hook-up fees. Freda Lennon inquired if the Joint Authority was responsible for the repayment of the loan. President Richards responded yes, that the Borough is only responsible in the event of default. John Schlaline questioned Charles Eisenhart on the Authority's financial ability to repay the loan. Mr. Eisenhart stated that he is confident in the expected revenues and that within five (5) years Hamilton Township would require the services of the new facility. Freda Lennon asked if customer charges would decrease when Hamilton and Reading Townships share the sewer facilities. Mr. Eisenhart responded that costs could come down eventually. President Richards noted the possibility of one point four (1.4) million dollars in connection fees from nearby townships, with the majority coming from Hamilton Township.

Janet Bollinger voiced concerns of a rumor of Kinsley Construction purchasing the C.W. Test property of Buttercup Farms, which would eliminate the possibility of residential sewer hook-ups. Doris Sabine stated that she confirmed with Rock Real Estate that this has not happened.

President Richards reviewed the Borough's advertised consideration to adopt Ordinance 2009-2, membership in the Adams County Council of Governments. It was noted that the Borough's membership would require the appointment of a delegate and the adoption of a Resolution naming the delegate. Doris Sabine volunteered for this position; Robert Clayton to be alternate. *Robert Clayton motioned the adoption of Ordinance 2009-2; seconded by Janet Bollinger. Motion approved with no dissenting votes.*

President Richards reviewed the Borough's advertised consideration to adopt Ordinance 2009-3 and corresponding Agreement, the Borough's guarantee of the East Berlin Area Joint Authority repayment of a Pennvest loan to construct a new sewer facility. President Richards reminded Council that it is unlikely that the Authority would default on repayment. David Woodward questioned the timing of the grant funding to be received. Attorney Leber stated that the authorization is in place for the approximate four million dollar (\$4,000,000.00) grant from the Commonwealth Financing Authority (H2O) and that problems in the state legislature have slowed the process. Hopefully, this situation will improve by the end of the year. David Woodward asked if the amount of the construction bid could affect the grant amount. Attorney Leber responded that the awarded grant consideration is predetermined by the specifications of the application. John Schlaline inquired how the grant funds would be dispensed when available. Attorney Leber stated that the H2O grant monies will likely be based on requisition and not in the form of an advance. *Charles Eisenhart motioned to adopt Ordinance 2009-3; seconded by Robert Clayton. Per role call vote of the Borough Council Members, Janet Bollinger, Robert Clayton, Charles Eisenhart, David Woodward, and David Richards voted in approval. Doris Sabine and Charles Philips cast dissenting votes. Motion approved by a majority of five (5) favorable votes to two (2) dissenting votes.*

Mayor's Report: Nothing to report.

Engineer's Report: President Richards reported on a meeting held by Kimbob, Eric Mains of KPI Technology, Robert Meminger, and Robert Clayton to review the street projects in the Borough. Robert Clayton noted that if Kimbob quoted an agreeable price, the issue of the drainpipe at Schoolhouse Lane might also be addressed. It was also noted that per engineering review, the patch applied to the sinkhole in the parking lot of the East Berlin Area Community Center was sufficient to correct the problem.

Solicitor's Report: Solicitor Shultis stated that the attorneys contracted by the Borough would be available to make comments at the Department of Environmental Protection (DEP) hearing of Tucker Industries' application for permit scheduled for August 27, 2009. Solicitor Shultis noted that the Best Available Technology Analysis required by DEP from Tucker Industries has not been supplied and would not be available before the scheduled hearing, suggesting consideration of postponement of the meeting. President Richards stated that if the meeting date were extended, the location would likely be changed to Harrisburg rather than East Berlin. Solicitor Shultis urged Council to rely on the contracted advisors to review the Best Available Technology Analysis noting that Mr. Tucker has employed environmental experts in his permit application process. Solicitor Shultis requested an Executive Session following tonight's meeting to discuss this further. President Richards noted that DEP would be examining the Analysis as well and stated that he would be making a presentation to DEP as a citizen of the Borough.

Solicitor Shultis commented that he would be representing the Borough at the upcoming Zoning Hearing Board meeting on September 9, 2009, to hear Tucker Industries' appeal of sign violations. In a discussion of the requirement of the services of Attorney Charles Suhr, it was deemed unnecessary.

Solicitor Shultis recommended to Council that a policy be adopted regarding internal access to Municipal files, noting that Council should work closely with Secretary/Treasurer Darlene McArthur is creating these guidelines.

Committee Reports:

Finance: President Richards noted that a financial comparison report would be reviewed at the next Council meeting and again commented on the significantly lower cost to the Borough for insurance premiums due to a change in agencies.

Streets/Public Safety: Janet Bollinger requested a copy of a letter to Mr. Whittington from Mayor Hoffman. The Mayor stated that he would provide a copy. Robert Clayton reported that he and Robert Meminger met with Joe Grim of East Berlin Excavating to discuss the maintenance of several field areas in the Borough and possible snow and ice removal service. An agreement was reached to service the field areas. Mr. Grim stated that he would be available for snow and ice removal and has the necessary heavy equipment.

Robert Clayton reported that Robert Meminger obtained three (3) proposals for line painting of crosswalks in the Borough with Alpha Space Control quoting well below the others. President Richards inquired as to the expected durability of the painting. Robert Clayton replied approximately one (1) year at which time Borough Maintenance could touch up the crosswalks as needed. Dan Libetore stressed the need for this project commenting on the safety factor and the esthetic appeal for the town. *Robert Clayton motioned to accept the proposal of Alpha Space Control to paint the crosswalks; seconded by Doris Sabine. Motion approved with one (1) dissenting vote.*

Maintenance: Robert Clayton reported that Dustin Becker has been employed as a part time temporary helper for approximately two (2) to three (3) weeks to assist Robert Meminger in painting curbs and clearing storm drains.

IT: Nothing to report.

Planning/Zoning: David Woodward reported that the remaining sign violation letters are to be mailed. Mr. Woodward noted that the former Nell's building will not be subdivided and will be utilized in its entirety by the new printing business, still to obtain an occupancy permit.

Personnel: Doris Sabine commented on the new temporary worker to assist with maintenance projects. All required paperwork is on file and background check completed.

Park/Recreation: Nothing to report.

Unfinished Business: President Richards reported that Borough Council sent a letter to the residents of East Berlin explaining the Guarantee Ordinance for obtaining funds to construct a new sewage facility.

President Richards commented on a newspaper article referencing a Gettysburg Borough Ordinance adoption requiring a permit for firearms to discharge blanks. The Ordinance was deemed "unfair if not illegal" by many veterans and military service members similar to the recent sign zoning issues in East Berlin.

The three (3) year contract will be signed with York Waste Disposal to provide refuse service to the Borough per the accepted proposal. Billing is to be quarterly.

Doris Sabine followed up on her contact with Tracey Parmer of Met Ed to discuss the possibility of lowering street lighting costs for the Borough by decreasing the output wattage or turning off some of the street lights. Ms. Parmer recommends against this and will be sending documents to explain the risks.

New Business: A letter was sent to the Penn Township Supervisors requesting a sample copy of the post card notices used to notify residents of zoning violations prior to official notice.

Attorney Eugene Dice on behalf of the Borough of East Berlin sent a letter to William Weaver of the Department of Environmental Protection regarding issues with Tucker Industries' permit application. Additionally, two (2) letters were sent to Tucker Industries from the East Berlin Zoning Office regarding past unresolved zoning violations.

President Richards suggested the purchase of the Pennsylvania Borough Code Related Laws per the advertised price of thirty-five dollars (\$35.00).

Correspondence:

- Results were received of the Adams County Illegal Dump Survey
- Conservation District Floodplain Workshop announced
- Historical District Guide Plan Advertisement
- Adams County Greenway Plan Meeting scheduled for September 16, 2009
- Complaint received regarding a "junk shop" on West King Street
- Draft of the Adams County Stormwater Plan

The minutes of the meeting of the East Berlin Borough Council were closed at 9:20 PM for an Executive Session on the upcoming DEP hearing. Council came out of Executive Session at 9:55 PM. A motion to adjourn the meeting of the East Berlin Borough Council was made by Janet Bollinger, seconded by Charles Philips. Motion was approved with all in favor.

Respectfully submitted,

Darlene McArthur
Secretary/Treasurer of Borough Council