

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

December 1, 2009

The first monthly meeting of the East Berlin Borough Council was held December 1, 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; Charles Philips; David Woodward; and Doris Sabine

**Members Absent:** Mayor Keith Hoffman

**Also Present:** Solicitor Timothy Shultis; Secretary/Treasurer Darlene McArthur; Frank Schuhart; Mary Earnst; Tim Stonesifer, Reporter for the Evening Sun; Frank Chronister; Keith Baker; Ed Robbins; Evan Batts, York Springs Code Enforcement; and Andrew Raymond

President Richards stated that an Executive Session was held at 6:00 PM prior to regular Council Session.

**Correction to the Minutes:** The minutes of the meeting of November 18, 2009 were reviewed. *A motion to approve the minutes was made by Robert Clayton; seconded by Charles Philips. Motion approved with all in favor.*

**Payment of Bills:** President Richards reviewed a summary of bills for the beginning of December totaling \$23,228.38, noting that two (2) items would be discussed in the Finance Committee report. There was mention in the adjustment of the due date on certain Met Ed accounts. *A motion was made by Charles Philips to pay the bills for the beginning of December and the Act 537 loan payment; seconded by Janet Bollinger. Motion carried with all voting in favor.*

**Constituents Addressing Borough Council:** Mary Ernst addressed Council on the previously discussed storm water issue on Borough property behind her house on Water Street. President Richards stated that the engineers of both the East Berlin Area Joint Authority and the Borough have discussed this issue and recommend replacing the entire pipe and hooking to the sewer system. The pipe would be upgraded to a sufficient size to alleviate the problem. Mrs. Ernst requested answers to her questions previously submitted to Council. President Richards stated that he would respond with a letter.

Andrew Raymond presented several street signs recently purchased by the Borough for the Fire House warning signal project. There was some discussion of the delay in PennDOT's approval for the solar powered flashing signal relating to mapping the location of the sign. President Richards noted that the Engineer Eric Mains has contacted PennDOT officials and Representative Will Tallman in attempts to resolve this issue. Mr. Raymond also noted that basketball league activities are scheduled to begin the first weekend of the New Year, asking for support of this effort.

**Mayor's Report:** In Mayor Hoffman's absence, the police report of forty-five (45) incidents for the month of November was reviewed by Council.

**Fire Chief's Report:** Fire Chief Frank Chronister reported forty-six (46) emergency medical service calls and eleven (11) fire calls for the month of November. Mr. Chronister conveyed his wishes to all for a happy and safe holiday, urging that caution be taken with live Christmas trees in consideration of fire hazards.

**Engineer's Report:** President Richards reported on the drainage issue near Rocco's Pizza and the recommendations of the Borough Engineer to grind down the street, make changes in the drainage system, and install an estimated fifty feet (50') of new curbing. It was noted that this action requires discussion with the owner of Rocco's as the cost of sidewalk/curbing is the responsibility of the property owner. President Richards stated that he would review this with the property owner.

**Solicitor's Report:** Solicitor Timothy Shultis reported that a notice of appeal had been received regarding the sign issue at Hogwild Barbeque, recommending that the Borough file a notice with Adams County to intervene for comment. *Robert Clayton motioned that the Borough would file the intervention notice; seconded by Janet Bollinger. Motion approved with no dissenting votes.* There was some discussion of possible Borough Code violations regarding the cooker as an obstruction and a safety hazard.

Solicitor Shultis reported that a letter was received from Attorney Harold Eastman regarding storm drainage on the property of Kenneth and Patricia Young, noting that this would be discussed further at the next Council Meeting. President Richards noted that there are some errors in the facts stated in the letter.

**Correspondence:** A request was received from Mr. Dave Yake of the New Oxford Lions Club to place a two-foot by four-foot (2'x4') folding sign near the town square announcement board to advertise their annual orange sale through December 20th. After some discussion, Council made the decision to permit the placement of the sign with the requirement of a temporary sign permit at no charge. Mr. Yake must agree to relieve the Borough of any damage liability, remove the sign in a timely manner, and not block the town announcement board.

**Unfinished Business:** President Richards reported that communications were received from both Representative Will Tallman and Representative Dan Moul voicing their opposition to the proposed House Bill 1500. This Bill, if approved, would require additional police coverage at the expense of municipalities that rely in whole or in part on regional police service. Mr. Tallman indicated growing support from larger municipalities bearing the expense of a self-contained police force, while Mr. Moul indicated the Bill would likely not be approved in its current form.

A draft ordinance from the Department of Environmental Protection regarding outdoor boilers was reviewed by Council, noting that DEP will accept comments through March 2010. President Richards noted that the requirement of a one hundred fifty foot (150') setback from the property line would preclude the use of outdoor boilers in the Borough. Comment on this stipulation may be submitted by the Borough to DEP. It was noted that some outdoor boilers currently exist in the Borough. Council will await a final version of DEP's ordinance before taking further action.

Planning Commission Vice Chairman Ed Robbins addressed Council on behalf of Chairman John Schlaline regarding recommendations submitted to Council by the Planning Commission and By Laws to be approved by Council. Solicitor Shultis noted that an ordinance is needed to officially create the Planning Commission. There was some discussion of specific points of the By Laws as submitted. Mr. Robbins stated that a revised version would be presented at the next meeting of Council. Regarding other recommendations from the Planning Commission, President Richards presented a solar panel ordinance example provided by the state for Council review. It was noted that the ordinance is lacking necessary details and a more suitable version would be presented at next Council meeting. President Richards also noted that the Zoning Ordinance does address cellular towers in the Borough.

**New Business:** A letter written on behalf of the Borough by Attorney Eugene Dice to William Weaver of the Department of Environmental Protection was reviewed. The letter stated that an analysis of Best Available Technology determined that the controls utilized by Tucker Industries were insufficient. President Richards recommended that Council approve the letter. *Charles Philips motioned to approve and send the letter; seconded by David Woodward. Motion approved with all voting in favor.*

President Richards presented a draft letter to be sent to DEP in response to information received regarding permission granted to Tucker Industries to install a paint spray booth at the King Street property. Solicitor Shultis recommended some revisions. *Charles Philips motioned to send the revised letter to DEP; seconded by David Woodward. Motion approved with all voting in favor.*

President Richards presented a draft letter to be sent to Mr. Coxon of Pennwood Products regarding the intention to construct a building addition without requesting the appropriate permits from the Borough or submitting a land development plan. Senior Zoning Officer Robert Thaeler will be personally contacting Pennwood Products on this issue, and suggested some revisions to the draft letter. Evan Batts, York Springs Code Enforcement Officer, addressed Council on the necessity of a position to oversee code and zoning issues in the Borough and offered his knowledge and experience in assisting in this capacity. *Charles Philips motioned to have Mr. Thaeler contact Pennwood Products and to send the revised letter if necessary; seconded by David Woodward. Motion approved with no dissenting votes.*

A proposed amendment to Borough Code Chapter 31, Excavations in Streets, was presented for Council review. President Richards submitted a letter to be sent to the East Berlin Area Joint Authority regarding the requirement of a permit for excavation of streets in the Borough. *David Woodward motioned to send the letter of permit requirement to the Joint Authority; seconded by Robert Clayton. Motion approved.*

Regarding the proposal to amend the property tax rate, President Richards noted that Council approval of the current tax structure is needed. The current municipal tax structure includes per capita tax of five dollars (\$5.00), earned income tax of one-half of one percent (1/2 of 1%), real estate transfer tax of one-half of one percent (1/2 of 1%), occupation tax of five percent (5%), and property tax of four (4) mills. *David Richards motioned to approve the current tax structure; seconded by Robert Clayton. Motioned approved.*

### **Committee Reports:**

**Streets/Public Safety:** Janet Bollinger commented on excessive lawn clippings blown onto Kuhn Drive during mowing at Pennwood Products. It was noted that the clippings were cleared by Borough Maintenance and a letter was sent to Pennwood Products reminding them to avoid these conditions per Borough Code requirements.

**Maintenance:** Robert Clayton reported new maintenance hire Don Myers is performing well. The F250 truck is ready for plowing, loaded with antiskid and the F750 truck is filled with a salt and stone mixture. Curbs and storm drains were cleared of leaves except Hillside Drive where there is an issue of low hanging tree limbs. Property owners are to be notified. A load of stone is needed at the entrance of Kuhn's Woods due to muddy conditions.

President Richards presented a letter of agreement to be sent to Liberty Fire Company regarding vehicle insurance of five (5) vehicles used by the fire company but titled to the Borough. The agreement proposes to transfer ownership and insurance responsibility of these vehicles to

Liberty Fire Company. There was some discussion of the inter-municipal agreement with Paradise Township, Hamilton Township, and Washington Township for worker's compensation insurance. *Robert Clayton motioned to send the letter of agreement to Liberty Fire Company; seconded by David Woodward. Motion approved with all voting in favor.*

**IT**: Nothing to report.

**Planning/Zoning**: David Woodward reported that the Planning/Zoning Committee would be meeting to discuss issues in the Borough. Mr. Woodward suggested the possibility of employing the services of Mr. Evan Batts for addressing code, zoning, and permitting issues, noting that this would also be discussed in Committee meeting.

**Personnel**: Doris Sabine commented that new hire Don Myers was working out well in the position of part time maintenance laborer.

**Park/Recreation**: President Richards reported that a second draw was remitted for the Community Park construction contract with Conewago Enterprises in the amount of sixty-five thousand dollars (\$65,000.00). It was noted that a letter was sent to the residents of the Borough to solicit additional donation dollars for the park project.

**Finance**: President Richards presented and reviewed a revised 2010 proposed budget. Changes include a storm sewer upgrade at a cost of ten thousand dollars (\$10,000.00). There was discussion of detailed line items including the addition of a part time police officer and increased zoning enforcement costs. President Richards noted that there would be two (2) more meetings to discuss the proposed budget before adoption.

Solicitor Shultis reported that a meeting has been requested between Council Members and Mr. Bernard Tucker to discuss current issues on the 14<sup>th</sup> or 15<sup>th</sup> of December. It was noted that this would be scheduled as an Executive Session and not open to the public. *Robert Clayton motioned to approve the meeting; seconded by Charles Philips. Motioned approved with no dissenting votes.*

*Charles Philips motioned to adjourn the meeting of the East Berlin Borough Council at 9:15 PM; seconded by Robert Clayton. Motion approved with all voting in favor.*

Respectfully submitted,

Darlene McArthur  
Secretary/Treasurer of Borough Council