

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

February 2, 2010

The first monthly meeting of the East Berlin Borough Council was held February 2, 2010 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; Richard Cashman; Charles Philips; David Woodward; and Andrew Raymond

Members Absent: Mayor Keith Hoffman

Also Present: Solicitor Timothy Shultis; Secretary/Treasurer Darlene McArthur; Mary Ernst; Tim Stonesifer, Reporter for the Evening Sun; Jan Hoffman; Bob Greer; Barbie McCarthy; John Schlaline; and Robbie Teal

Correction to the Minutes: The minutes of the meeting of January 4, 2010 were reviewed. President Richards proposed a correction to the minutes of January 20, 2010 regarding a letter to the East Berlin Area Joint Authority as follows: {President Richards proposed to send a letter to the East Berlin Area Joint Authority to request that response be made to previous ~~demands~~ requests made to the Joint Authority in 2009.} *A motion to approve the minutes as corrected was made by Charles Philips; seconded by Robert Clayton. Motion approved with all in favor.*

Payment of Bills: A summary of bills for the beginning of February totaling \$50,635.16 was reviewed. President Richards commented that no further bills would be received from Buchanan Ingersoll & Rooney or Environmental Resources Management, Inc. as the services of Attorney Eugene Dice have been discontinued. It was noted that the quarterly invoice in the amount of \$27,901.54 from York Waste Disposal would change to monthly billing in the future. Richard Cashman inquired if the bills from Buchanan Ingersoll & Rooney, Environmental Resources Management, Inc., and Stevens & Lee were for zoning issues. President Richards responded that these are zoning enforcement expenses regarding the Borough's actions against Tucker Industries. *A motion was made by Richard Cashman to pay the bills for the beginning of February; seconded by Andrew Raymond. Motion carried with all voting in favor.*

Constituents Addressing Borough Council: Doctor Robert Greer, President of the Board of Trustees of the East Berlin Community Library addressed Council on the subject of the Library's purchase of the property adjacent to the Library. Having outgrown the current facility, Dr. Greer explained an expansion plan resulting from a five-year study with a concept to build on behind the Library and utilize the additional property for parking, noting that this project would be achieved in small stages. It was noted that a meeting is scheduled for 7:00 PM, April 26th at the Fire Hall for the community to make suggestions on the project. Dr. Greer stated that ideally, the building on the newly purchased property would be rented out as commercial or storage space, requesting input as to any interested parties. Dr. Greer reported that an additional member to the Board of Trustees is needed, preferably a Borough resident. President Richards offered to post this request in the Borough "Newslines" publication.

Mayor's Report: In Mayor Hoffman's absence, President Richards reviewed the police reports for December 2009 and January 2010.

Fire Company Report: As a representative of the Fire Company, Andrew Raymond reported on the difficulties resulting from an undersized facility and grounds, particularly referencing the Fire Company

Carnival and Parade. Some considerations include building modification or acquiring additional grounds. There was some discussion of the area of Lafayette Park (Kuhn's Woods). It was noted that this land is part of the American Tree Farm System and uses of this land are somewhat restricted. Jan Hoffman stated that would be researching deed restrictions on this land regarding other uses.

Engineer's Report: President Richards reported on the drainage issue near Water Street, which will require the cutting of the asphalt in front of the Borough building to locate the storm drain. No drawings of the storm drain system have been found but research will continue.

Solicitor's Report: Solicitor Timothy Shultis announced that an executive session is scheduled for 4:00PM, February 4th to discuss zoning issues. As there is a Zoning Hearing Board deadline to meet, Solicitor Shultis suggested that Council consider February 25th as an additional possible Executive Session date. Regarding the appeal of Hogwild Barbeque and Catering to the Court of Adams County, Solicitor Shultis reported that Judge Kuhn has scheduled a March 4th meeting for briefing and argument of the case.

Committee Reports:

Finance: President Richards stated that a January financial comparison report would be reviewed at the next meeting of Council. President Richards noted corrections to statements he made at the previous meeting of Council. The first, correcting the cost of refinancing the Act 537 loan from two thousand dollars (\$2,000.00) to three thousand dollars (\$3,000.00) per the requirement of the Local Government Unit Debt Act, the second correcting a response to Richard Cashman regarding the cost of auditing to include the Borough's expense of guaranteeing the Pennvest loan to the East Berlin Area Joint Authority.

President Richards reported on his attendance at a meeting of the York Adams Tax Bureau, noting a reduction in area income. New officers, attorney, and auditors were appointed. The By Laws for Act 32 were not yet complete. President Richards noted that the Bureau reported expenses of 1.7%, just short of the 2% collection fee now retained by the Bureau in servicing the municipalities.

Streets/Public Safety: Charles Philips reported that Robert Meminger and Donald Myers have been cleaning up most of the anti-skid material from the Borough streets. Andrew Raymond mentioned some potholes in the Borough that he would be discussing with Mr. Meminger. President Richards noted that some of the retrieved anti-skid was utilized at the entrance of Kuhn's Woods.

Maintenance: Robert Clayton reported the January 22nd snowstorm expenses, including one (1) man-hour, one (1) ton of anti-skid, and one (1) gallon of fuel. The storage area above the garage is being cleaned out and adapted to allow accessibility for storing and retrieving documents more efficiently. A file detailing the forest certification and timber sale of Kuhn's Woods was found noting that the property is a tree farm and stated the Borough's membership in the American Tree Farm System. Mr. Clayton reported that Swam Electric has performed a preventative maintenance check on the traffic signal. There was some discussion of adding a winch to the back of the F250 truck primarily for lifting storm sewer grates and other items as needed.

IT: Mr. Clayton reported that an old tape machine and tapes were found in the storage area and discussed any necessity for retaining these items, mostly dating from the 1970s and 1980s. David Woodward stated that there might be some historical value. Solicitor Shultis noted that the

Borough is not legally required to retain these recordings. Mr. Clayton stated that the recordings may be degraded but he would attempt to play them.

Planning/Zoning: David Woodward announced that a meeting of the Planning and Zoning Committee is scheduled for Friday, February 5th at 9:00 to review ordinances. Outdoor furnace regulations would be discussed with Planning Committee Chairman John Schlaline. Mr. Woodward reported that he has been in communication with Mr. Evan Batts on the issue of serving as permitting officer. There was some discussion of Mr. Matthew Stambaugh's printing business in the former Nell's building not in compliance with the requirements of the Use and Occupancy Permit. It was decided that a letter would be sent to Mr. Stambaugh requesting his cooperation in obtaining this permit.

President Richards reviewed the request of the Planning Commission that Council officially respond to submissions made by the Planning Commission as a matter of record, stating that this might be done if the form of a memorandum. Council agreed.

Personnel: Charles Eisenhart presented an updated personnel policy for Council's review, including the addition of Equal Opportunity Employment and Sexual Harassment Policies. *Charles Eisenhart motioned to accept the updated policies; seconded by Robert Clayton. Motion approved with all in favor.* Mr. Eisenhart also noted that performance evaluations are scheduled tomorrow morning for Robert Meminger and Darlene McArthur, and that a hiring procedures policy is currently in process.

Park/Recreation: President Richards reported that a quote of five hundred dollars (\$500.00) per year was received to insure the skate park once all requirements are in place. The requirements include specific signage, signed waivers, and a maintenance schedule. Park and Recreation Chairman Philip Keener is investigating other insurance carriers for cost and requirements.

Unfinished Business: Regarding the December 16, 2009 appointment of Charles Philips to the Board of the East Berlin Area Joint Authority, President Richards stated that the vote of Council cannot be rescinded if properly appointed, but if appointment is made by a Council leaving office it is not a valid appointment. The new 2010 Council Members must appoint the position. Richard Cashman mentioned that a "Lame Duck" Council had also appointed David Richards to the Joint Authority. Solicitor Shultis stated that there was no change in the membership of Council at the time of Mr. Richards' appointment but the appointment was made in December of 2008 prior to the term expiration of the open position. The appointment should have been made in January 2009. Solicitor Shultis suggested nominations be made to reappoint both positions. Charles Eisenhart again voiced the opinion that only one Council Member should sit on the Board of the Authority. President Richards noted that this was not the view of Council at the inception of the Joint Authority in 2007.

Regarding the invalid appointment of Charles Philips to the Board of the Joint Authority, Richard Cashman nominated Charles Krall; seconded by Andrew Raymond. Robert Clayton nominated Charles Philips; seconded by David Woodward. President Richards noted that in the roll call vote process, Council President casts the last vote. *Per roll call vote, Robert Clayton, David Woodward, and Charles Philips cast votes for Charles Philips. Charles Eisenhart, Richard Cashman, Andrew Raymond, and President Richards cast votes for Charles Krall. Charles Krall is appointed to the Board of the Joint Authority by a vote of four (4) to three (3).* President Richards stated that he would contact Mr. Krall. Regarding the invalid appointment of David Richards to the Board of the Joint Authority, David Woodward nominated David Richards; seconded by Robert Clayton. Charles Eisenhart nominated

Gregery Green; seconded by Andrew Raymond. *Per roll call vote, Charles Eisenhart, Richard Cashman, and Andrew Raymond cast votes for Gregery Green. Charles Philips, Robert Clayton, David Woodward, and David Richards cast votes for David Richards. David Richards is appointed to the Board of the Joint Authority by a vote of four (4) to three (3).*

Richard Cashman inquired of Solicitor Shultis regarding his email of the validity of ballot voting per the Sunshine Law. Solicitor Shultis responded that he had not researched the matter, but noted that ballot voting works well in cases where many nominees are considered for a single position.

President Richards asked Council for input on the proposed Snow Emergency Ordinance. There was discussion of many variables including where to park cars during a snow emergency and the banning of unlicensed all-terrain vehicles. *Charles Eisenhart motioned that the proposed ordinance goes to Ad Hoc Committee; seconded by David Woodward. Motion approved with all in favor.* David Woodward, Richard Cashman, and Andrew Raymond volunteered for the committee. Additionally, Mr. Raymond proposed to request the input of Officer Michael Grim.

President Richards stated that the Department of Environmental Protection is accepting comments on the proposal to regulate wood-fired boilers until the end of March. Robert Clayton noted that two (2) nearby municipalities had recently banned wood-fired boilers. After some discussion, it was decided to draft an ordinance to ban outdoor boilers in the Borough and that further discussion would be made of pellet stoves as well. President Richards reminded all that Council would be accepting public comments on the revised Chapter 31 of the Borough Code regarding Excavation of Streets at the next meeting.

New Business: President Richards reported that the Borough's accountant has reviewed material for 2009 and that adjustments would be made to remove balances from non-existing water and sewer accounts. In relation to his position with Liberty Fire Company, Andrew Raymond stated to Council that if a major emergency incident should occur, he must leave the Council meeting. Mr. Raymond also reported that a meeting of the Basketball League was held at the Community Center and that several Borough residents have become CPR qualified.

Correspondence: President Richards reported that a letter was received from Mr. Ken Young regarding the comments of Jacque Hoffman at the December 2009 meeting of Council. A letter was sent to the East Berlin Area Joint Authority requesting any drawings showing storm sewers. President Richards reminded all public officials that financial statements as required by the Pennsylvania State Ethics Commission should be turned in to Secretary/Treasurer Darlene McArthur, and reminded Council of the Executive Session scheduled for February 4th at 4:00 PM.

Robert Clayton motioned to adjourn the meeting of the East Berlin Borough Council at 9:04 PM; seconded by Charles Philips. Motion approved with all voting in favor.

Respectfully submitted,

Darlene McArthur
Secretary/Treasurer of Borough Council