

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

April 3, 2013

The first monthly meeting of the East Berlin Borough Council was held April 3, 2013, at the East Berlin Borough Hall. The meeting was opened with the Pledge of Allegiance at 7:00 PM.

**Members Present:** President Charles Krall; James LeVan; Roberta Teal; Charles Eisenhart; Donald Dixon; Richard Cashman; and Andrew Raymond

**Members Absent:** None

**Also Present:** Mayor Keith Hoffman; Solicitor Matthew Battersby; Secretary/Treasurer Darlene McArthur; Cory Lease for Liberty Fire Company; Charles Miller for Pennwood Products; and Andy Brough for Conewago Enterprises

Vice President LeVan presided over this evening's meeting of Council due to President Krall's temporary loss of voice. President Krall's votes for this meeting will be signified by raising his hand.

**Adoption of the Minutes:** The minutes of the meeting of March 13, 2013, were reviewed. Donald Dixon requested that the words {250<sup>th</sup> Anniversary} be added as a descriptor to clarify the purpose of the street pole banners discussed under New Business. *A motion to approve the minutes with the addition was made by Andrew Raymond; seconded by Charles Eisenhart. Motion approved with all in favor.* The minutes of the meeting of March 27, 2013, were reviewed. *A motion to approve the minutes was made by Andrew Raymond; seconded by Charles Eisenhart. Motion approved with no dissenting votes.*

**Payment of Bills:** A summary of bills for the month of April totaling \$23,585.33 was reviewed. In response to Mr. Dixon's inquiry regarding an invoice for transcription services from Zepp Court Reporting, it was noted that this cost is not directly passed onto the hearing applicant but is normally covered by the application fee. *Roberta Teal motioned to pay the bills for the month of April; seconded by Donald Dixon. Motion approved with no dissenting votes.*

**Constituents Addressing Borough Council:** None.

**Mayor's Report:** The police report for March was provided to Council.

**Fire Company Report:** Cory Lease introduced himself as the Fire Captain at Liberty Fire Company and reviewed the activity report for the month of March including twenty-seven (27) fire responses and seventy-one (71) ambulance calls.

**Engineer's Report:** It was noted that Borough Engineer Eric Mains was unable to attend this evening's meeting due to a medical issue. Regarding a Land Development Plan submitted by Pennwood Products, Secretary McArthur relayed Mr. Main's proposed conditions for Council's approval of the Plan. The proposed conditions are an expansion of those contained in Planning Commission Recommendation No. 032813-1 to include: 1) Merger of Parcels Agreement [subject to the approval of the Solicitor], 2) Bonding Agreement [and estimate subject to the approval of the Solicitor and Engineer], 3) [NPDES Permit addressing] Erosion and Sediment Control, 4) any remaining follow-up items with the Joint Authority, [and 5) approval from County Planning or Zoning Officer]. It was noted that approval of the Plan was recently received from Zoning Officer Robert Thaeler specifically addressing landscaping requirements. Andrew Brough, representing the project contractor Conewago Enterprises, reviewed his attendance and comments at the recent meeting of the Planning Commission including the parcel merger with new deed and boundaries noted, the requirement of Solicitor's approval of the Bonding Agreement,

expectation of NPDES Permit approval, and items being addressed with the Joint Authority. Solicitor Battersby suggested that further review may be needed before Council's approval of the Plan. Andrew Raymond emphasized that all conditions as noted would require the Solicitor's approval and suggested that Council grant conditional approval. Mr. Brough stated that conditional approval is not unusual and noted the affect of Council's approval on the timeframe of the project. It was also noted that the Plan could not be recorded at the County Courthouse unless all conditions are met. *Andrew Raymond motioned to approve the Land Development Plan with the conditions as noted by the Borough Engineer; seconded by Roberta Teal. Per roll call vote, all Council Members approved the motion.*

**Solicitor's Report:** Regarding the Conditional Use Hearing for Chesapeake Towers to place a cell tower on Borough-owned land, Solicitor Battersby reminded Council of the requirement to render a decision within the forty-five (45) day timeframe from the March 27<sup>th</sup> Hearing date. Solicitor Battersby stated that Findings of Facts and Conclusions of Law must be documented based on the Hearing testimony. Regarding possible access to the proposed cell tower facility and other areas of Kuhn's Woods, Richard Cashman noted that the Park Avenue extension option is unlikely due to the unwillingness of the current property owner. Mr. Cashman also discussed the requirement by the Department of Conservation and Natural Resources (DCNR) that any revenue from land purchased with Project 70 funds must be utilized for the betterment of parklands. Ms. McArthur clarified that, per her discussion with Kevin Starner of DCNR, the revenue from the proposed cell tower may benefit any parkland in the Borough to include the Community Park as well as Kuhn's Woods. Solicitor Battersby reminded Council that the issues of alternate access and revenue expenditures are separate from the Conditional Use approval process, which is based solely on meeting the requirements of the Borough's Zoning Ordinance. *Andrew Raymond motioned to approve the Conditional Use for Chesapeake Towers to erect a cell tower on Borough-owned land in Kuhn's Woods; seconded by Roberta Teal. Per roll call vote, all Council Members approved the motion.*

Richard Cashman discussed a letter from Zoning Officer Thaeler to the owner's of the former Nell's building informing them to discontinue the noncompliant use of the property. Mr. Cashman noted that no deadline was given in the notice and inquired how the order would be enforced. *Andrew Raymond motioned to instruct Zoning Officer Thaeler to enforce a timeframe to discontinue the industrial use of the former Nell's property on W. King Street; seconded by Richard Cashman. Motion approved with no dissenting votes.* Roberta Teal mentioned the noncompliance of the approved land use plan for this property and suggested that the one-way signs should be erected at each end of the parking lot and the directional arrows repainted on the asphalt. Council requested that Secretary McArthur send a notice to the property owner on behalf of Council informing them of the compliance requirements.

**Committee Reports:**

**Finance:** Council reviewed the Previous Year Financial Comparison Report. There was some discussion of the decrease in revenue and increase in expenses over the same period last year.

**Streets/Public Safety:** Roberta Teal reported that Borough Engineer Eric Mains was unable to meet with Robert Meminger for the monthly workshop session to discuss the proposed Schoolhouse Lane Drainage Project, but some of the issues were addressed by telephone and email. Once the paperwork is in order, invitations to bid will be sent out with a proposed completion date of June 7, 2013. Final plans for the traffic light evaluation will be reviewed with Mr. Mains when he is able to meet. Regarding a street excavation for a water main break on E. King Street, Donald Dixon stated that the safety cone placement is insufficient and proposed that additional markers be placed at the excavation. Robert Meminger would be instructed to address this issue.

**Maintenance:** Andrew Raymond reported that the spring street sweeping has concluded. A new cutting edge for the F250 snowplow was purchased and would be paid by Liquid Fuels funds, and a gas-powered pressure washer was purchased to assist in removing road salt from the Borough's

vehicles and equipment. Wood carpet and additional stone have been ordered for the playground at the Community Park, and hydrant and road edge markers installed for the winter have been removed for the season. In response to Mr. Dixon's inquiry of the timeframe for removing the Christmas lanterns, Roberta Teal stated that the Lions Club would address this as time permits.

**Planning/Zoning:** Nothing to report.

**Personnel:** Vice President LeVan presented Ordinance No. 2013-2 amending the Police Pension Plan to allow the Deferred Retirement Plan Option. *Andrew Raymond motioned to adopt Ordinance No. 2013-2; seconded by Donald Dixon. Motion approved with all in favor.*

**Park and Recreation:** Nothing to report.

**Unfinished Business:** Regarding Donald Moul's request at the previous meeting of Council to allow the construction of an additional building at the rear of his property at 103 W. King Street, Council instructed Secretary McArthur to draft a letter stating Council's response. The letter should state Council's appreciation of the improvements made at 101 and 103 W. King Street, and that Mr. Moul must obtain zoning approval and address storm water runoff requirements to erect an additional structure.

In a discussion of the cost estimate for a building permit for Pennwood Product's proposed warehouse, it was noted that the Borough's engineering fees would be passed on to the applicant and that the permit fee would be based on any additional cost to the Borough including administrative. *Charles Krall motioned to table the discussion to a future meeting of Council; seconded by Roberta Teal. Motion approved with all in favor.*

Vice President LeVan requested input from Council on the draft resolutions provided by the Adams County Boroughs Association requesting the Borough's support. The first resolution would expand the ability to put referendums on the primary and general ballots, and the second resolution would call for the alleviation of caps on the sale of small games of chance to raise funds for nonprofit organizations such as Liberty Fire Company. Andrew Raymond again requested the Borough's financial support for the Fire Company's roof project. Vice President LeVan mentioned the Borough's current year-to-date deficit and suggested that a donation is not feasible at this time. Council took no action on the proposed resolutions.

**New Business:** Vice President LeVan presented a request from J.P. Harris to update an agreement with the Borough to collect delinquent Per Capita and Occupation taxes. There was some discussion of the performance of J.P. Harris in this capacity. It was noted that the previous agreement was automatically renewed each year, but the new agreement would have a term of three (3) years. *Roberta Teal motioned to sign the agreement with J.P. Harris for delinquent tax collection; seconded by Andrew Raymond. Motion approved with no dissenting votes.*

**Correspondence:**

- Gettysburg Chamber of Commerce Newsletter
- PSAB April Training Schedule Updates
- Breakfast with Representative Will Tallman, 4/19/13, Trump's Restaurant, RSVP 4/12/13

Council discussed the upcoming meeting with Zoning Officer Thaeler regarding updates to the Borough's Zoning Ordinance scheduled for April 10, 2013 at 10:00 AM. President Krall, Charles Eisenhart, and Roberta Teal would attend in addition to members from the Planning Commission.

*Charles Krall motioned to adjourn the meeting of the East Berlin Borough Council at 8:32 PM; seconded by Richard Cashman. Motion approved with all voting in favor.*

Respectfully submitted,

Darlene McArthur  
Secretary/Treasurer of Borough Council