

# East Berlin Borough Council

## September 5, 2007

President Charles Eisenhart called the meeting to order at 7:30 PM at the Liberty Fire Company. The meeting opened with the Pledge of the Allegiance.

**Members Present:** President Charles Eisenhart, Janet Bollinger, Forrest Brehm; Gregory Green, Gerald L. Mummert, Jacque Hoffman, and Mayor Keith Hoffman

**Members Absent:** Rick Saxon.

**Also Present:** T. Michael Thoman, Borough Manager; Solicitor Matthew Battersby; Erik Hume, Solicitor; Hanna Furst, Secretary; Bruce Hulshizer of Buchart-Horn; Officer Mike Grim, Earl Bollinger, David Richards, Ralph Myers, John Lerew, Freda Lennon, Robert Clayton, Doris Sabine, Marlin and Roberta Householder, Jan Hoffman, Dave Woodward, Lou Ann Van Lieu, Ken Young, Herbert Walters, John & Karen Cleary, Sherry Brown, Betty Zire, Jim LeVan, William Bufford II, Sherry Gresens, Albert Schindler, Bonnie Shue, Joann Van Scyoc, Donald Dixon, Grant Yoder, Mitch Yoder, Andy Barley, Daniel Sanchez-Angeles, Brandon Messinger, Terry Morehead, Kyler Morehead, Angele Morehead, Luther Haar, Sue Topper, Harold and Leslie Deardorff, Charles Krall, John Schlaline, Michael Cook, Travis and Stacey Zaminski, Bev Jadus, Bill Powell Carole Mayer, Rebecca Meixner Gene Swartz, Shannon & Greg Morehead, Michele Devita, and Erin James, Evening Sun Reporter.

President Eisenhart reminded the people that the meeting was a business meeting of the East Berlin Borough Council and by law the people are allowed to be there and be heard. The other part of the law is that council has the right to set the rules and regulations that governs being there and being heard. In 2005 the Borough passed Resolution 4-2005-2 which states the policies that will be followed at the council meetings; and as of this meeting we will be following the resolution verbatim. In order to be heard, you are to sign up 1 (one) week in advance to be put on the agenda to speak. He also stated he had copies of the resolution and all are welcome to have a copy.

The minutes of the previous meeting were approved.

*On a motion by Gerald Mummert, seconded by Gregory Green and passed, payment of the bills for the month of August was approved.*

President Eisenhart gave a little background on the Rutter's expansion. He stated that on July 25, 2007 the Planning Commission on a motion by J. Hamon and was seconded by D. Messinger; approved the submitted plans for the Rutter's Farm Store #46 expansion with comments and recommendations from both the Borough Planning Commission and the Adams County Office of Planning and Development; which are attached.

President Eisenhart turned the meeting over to Neil Metzger from LSC Design who does work for the CHR Corp. (Rutter's Farm Stores). He is presenting the final land development plan for the building addition and fuel island expansion at the existing Rutter's Farm Store on Abbottstown Street. He stated the current store is quite old and needs to be brought up to the standards for a convenience store. Some of the changes include: brick work on all sides of the building, HVAC units that sometimes make noise, will be moved up to the roof and screened to help alleviate the noise, extensive landscaping for headlight screening and a fence and bushes. Rutter's plans to add 3 additional fuel pumps, expand the parking to 21 spaces, and expand the building by 200 square feet. The engineer's report (Buchart-Horn, Inc.) with their recommendations is also attached. Solicitor Matt Battersby asked Bruce Hulshizer of B-H, Inc. whether they were going to require any type of bond or letter of credit. Bruce stated it was required. Neil Metzger was asking for conditional plan approval based on meeting the storm water conditions.

A discussion was held by council, whether South Avenue would be widen and the answer was no. This was discussed at the planning commission meeting. Currently there are rocks that butt right up to the South Ave. right-a-way as a protective device for the retention basin that is there. The plan is to remove the rocks and fill in the basin.

***A motion was made by Jacque Hoffman and seconded by Gerald L. Mummert give LSC Design for Rutter's Farm Store #46 conditional approval.*** A discussion followed. Mr. Green questioned the storm water system and how it would work. He was told it would be underground with piping and more storm water storage area, and would easily accessible to clean. The cleaning device would clean out sediments, grit, and oils before going into the public storm water system. Ms. Bollinger asked who would maintain the system, and Mr. Metzger stated there is a note on the plan that requires Rutter's to inspect it every 6 months, and it is their responsibility or anyone they sell it to. Bruce Hulshizer mentioned there is a note that the Borough has access to inspect it also. Mr. Green questioned whether the maintenance of the storm water system is part of the deed, land forever the obligation to honor the maintenance of the storm water management system, he was told it is ***Motion was approved for the conditional approval.***

Constituents from the community that wish to address council are as follows with a five (5) minute allotment.

Ken Young, 203 Beaver Street, addressed council that he would like the Borough's solicitor to resign. He also handed a request form to President Eisenhart.

Doris Sabine, 504 West King Street, had a smattering of questions for the council.

Kyler Morehead, 139 Lodge Lane, and his friends expressed their thoughts on having a skate park included in the Borough's park phase 1 plan. He feels that they should prioritize skate boarding over soccer. This would give them a safer place to skate board. President Eisenhart suggested they take their suggestions to the Park & Rec. meeting on Thursday, September 13, 2007, at 7:30 PM.

Karen Cleary, 122 West King Street, expressed her concerns on the Rutter's expansion proposal, and how she feels this not for the best interest of the town residents.

***Mayor's Report:*** The Mayor stated everything is set up for Colonial Day, Saturday. He then read the police report stating 52 incidents for the month of August.

***Solicitor's Report:*** Attorney Battersby commented on the Addendum to the Service Extension Agreement with Hamilton Township. He then turned the meeting over to Solicitor Eric Hume. Attorney Hume stated this is the first addendum to the service agreement with CW Test; he then went over the highlights of the agreement. A copy is made a part hereof. It was stated that 3 wells were drilled, 2 wells were productive but the third well was not. Jacque Hoffman stated he would feel more comfortable if there was a fourth well drilled. ***A motion was made by Jacque Hoffman and seconded by Janet Bollinger that a fourth well be drilled.*** A discussion was held concerning the fourth well. President Eisenhart stated the wells never get permitted for the amount you expect, it is usually lower. Bruce Hulshizer questioned Jacque Hoffman why he requested a fourth well be drilled. Mr. Hoffman's response was he would feel comfortable because in years to come it's going to be tough to maintain water. Bruce Hulshizer stated he doesn't disagree with Mr. Hoffman, but the council and CW Test came to agree that this was a reasonable balance in their expectation. CW Test would be supplying just as much water as they were going to per EDU in the original agreement. Mr. Hoffman questioned what would happen if they pumped for the 30 days and they don't get the water they thought. Bruce Hulshizer stated they have already been pumped tested, and have reviewed the results. The only thing that would change is if the permits come back with a lower rating. There is a section of land that is reserved for a possible well, but CW Test plans on giving this land to the Borough regardless. CW Test would have met their obligations, and the Borough would have the opportunity to drill another well. Bruce Hulshizer clarified this by stating the way the development is set up, assuming the wells are permitted the way this agreement anticipates, the one well (100 gallon per minute) would be sufficient to serve this development and give the Borough extra water. The second well (29,000 gallons per day) that would be the back up well. To drill the fourth well would be a back up to a back up. If the Susquehanna River Basin Commission did not give CW Test the full amount of water they need for their development then CW Test would have to reduce the size of the development.

***A motion was made to amend this agreement to have CW Test drill the fourth well.*** A roll call vote was held: Bollinger-Yes; Brehm-No; Green-No; Mummert-No; Hoffman-Yes (2 Yes's-3 No's) ***Motion Defeated***

***A motion was made to Gregory Green and seconded by Gerald L. Mummert to approve the First Addendum to Service Extension Agreement.*** A roll call vote was held: Bollinger-Yes; Brehm-Yes; Green-Yes; Mummert-Yes; Hoffman-No (4 Yes's-1 No) ***Motion Carried.***

Susquehanna River Basin Commission will be submitting the information directly to Bruce Hulshizer and he will review the data, when that data is acceptable to Bruce then the application will be sent in to SRBC. The Borough must be the applicant not CW Test, this will keep things moving forward. CW Test is requesting the Borough to approve the submission of the application to SRBC, subject to Bruce reviewing the well data from Test's engineer. President Eisenhart entertained a motion to that effect. ***The motion was made by Gerald Mummert and seconded by Gregory Green.*** A brief discussion followed stating this is conditional once Bruce gets the information from Test's engineer. Mr. Green asked if Bruce thought there might be any irregularities, Bruce doesn't think there are any, he has already reviewed their draft report and the numbers agree with the addendum. ***Motion Carried.***

***Engineer's Report:***

***Buchart-Horn*** Bruce Hulshizer of Buchart-Horn, Inc. informed council they are continuing on with the sewer design and will be sending in the permit applications accordingly.

**COMMITTEE REPORTS:**

***Finance Committee:***

*A motion was made by Gregory Green to approve and adopt the East Berlin Borough Non-Uniform Pension Plan Minimum Municipal Obligation for the 2008 budget of \$28,852.00; it was seconded by Forrest Brehm and approved.*

*A motion was made by Gregory Green to approve and adopt the East Berlin Borough Uniform Pension Plan Minimum Municipal Obligation for the 2008 budget of \$5,313.00; it was seconded by Jacque Hoffman and approved.*

*A motion was made by Gregory Green to accept Resolution #9-2007-7; To cash in CD's as they become due and deposit the money into the specified accounts; it was seconded by Gerald L. Mummert and approved.*

***Streets Committee:*** Forrest Brehm informed council that Schoolhouse Lane has been blacktopped from North Avenue to the end of the Borough property line.

***Sewer & Water Committee:*** Mr. Mummert reported the water committee has been meeting with Mr. Richards to discuss the water and sewer rates.

***IT Committee:*** Mr. Green the minutes will be put on the web site in a timely manner.

***Public Safety:*** Janet Bollinger had received a phone call about an offensive odor suppose to be coming from Pennwood Products, but she herself did not smell anything offensive. Another concern was the property where the old Mummert Garage was, the grass and weeds need to be cut. The third concern was a swifter that was used on Doris Sabine's windows to clean the dirt from the smoker/cooker.

***Planning & Zoning:*** Nothing

***Personnel:*** Jacque Hoffman stated the part-time position has been filled by Crystal Topper.

***Parks & Recreation:*** Mr. Mummert mentioned they will have a stand at Colonial Day. Park & Rec. committee is pushing to sell bricks right now. He thinks it is great that these boys here are interested in the park and want a skate park, maybe the boys should be out helping to raise some of this money.

***Unfinished Business:***

President Eisenhart stated the Borough had the engineers review the plan and the cost is \$14,000 and is not finished. The council decided that if Mr. Young wants to proceed the Borough had an estimate of between \$3,000 and \$4,000 for what we wanted to do; which was to control the storm water erosion. It would be up to Mr. Young on which way he wants to go with this. If he decides to go with the plan of his engineer then the Borough would contribute \$3,500 of the cost. President Eisenhart tried to return his plans, but Mr. Young would not accept them. He requested that the Borough hold on to them until next month when his wife would be there.

***New Business:*** President Eisenhart mentioned that since we moved the meetings to the Fire Company; we should be paying for the use of the Fire Company Hall. Mr. Brehm stated the hall rental is \$100 per night, the Borough

is probably exempt. President Eisenhart feels the Borough is obligated to pay something because we are using their electric and air conditioning. ***A motion was made by Gerald L. Mummert and seconded and approved by Gregory Green to pay the Fire Co. \$100 for the use of the hall. Motion Carried.***

Jacque Hoffman asked the question if school bus parking on Jacobs Street was legal. President Eisenhart asked Officer Grim about it, Officer Grim stated that they are not allowed to be parked in front of the house, and Borough Council can address it as they see fit. President Eisenhart stated they would look into it.

***Correspondence:*** None

President Eisenhart adjourned the meeting at 8:59 PM. The next regular meeting will be held Wednesday, October 3, 2007, at 7:30 PM, at the Fire Company.

Respectfully submitted,  
Hannelore Furst, Secretary