

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

August 4, 2009

The first monthly meeting of the East Berlin Borough Council was held August 4, 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; John Schlaline; Earl Bollinger; Andrew Raymond; Frank Schuhart; Mike Cook; Freda Lennon; Frank Chronister; Bev Jadus; Bill Powell; Mark Furst; Jan Hoffman; Attorney Frank Leber; and Phil Keener

Correction to the Minutes: A correction to the meeting minutes of July 22, 2009 is the addition of the word *located* (in the town of East Berlin) in the Mayor's Report. *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.*

Payment of Bills: President Richards reviewed a summary of bills for the beginning of August totaling \$7,643.03 and the Act 537 loan payment of \$456.50. It was noted that a portion of the \$4,756.90 engineering invoice from KPI Technology would be paid with liquid fuels funds in the amount of \$2,607.80. President Richards stated that decreasing the output wattage or turning off some of the existing streetlights might lower the cost of the Met Ed invoice. Doris Sabine agreed to investigate this option. *A motion was made by Charles Philips pay the bills; seconded by Janet Bollinger. Motion carried with all voting in favor.*

Constituents Addressing Borough Council: None.

Mayor's Report: In the absence of Mayor Keith Hoffman, Janet Bollinger reviewed the police report totaling forty-five (45) incidents for the month of July.

Fire Chief's Report: Fire Chief Frank Chronister reviewed sixteen (16) fire and fifty-six (56) ambulance calls for the month of July. Mr. Chronister noted that the Department's second ambulance was put into service July 31, 2009.

Engineer's Report: President Richards reported that the Borough's street projects are progressing in conjunction with PennDOT and updates will be forthcoming.

Solicitor's Report: Solicitor Shultis reported that upon review of the bid tabulation for the upcoming street projects, a contract would be conditionally awarded to the apparent low bidder and that all documents are in order. The contract with Kim Bob, Inc. for \$8,980.00 was accepted and executed by the signatures of David Richards, Robert Clayton and Charles Philips.

Public comments were requested on the Ordinance to join the Adams County Council of Governments to be adopted August 19, 2009. No comments were received.

Solicitor Shultis discussed two (2) letters of zoning violations to be executed regarding Tucker Industrial Coatings. The Municipality is authorized to sign the notices given that the Senior Zoning Officer, a contracted representative of the Borough, is not comfortable in executing these notices due to recent events. The first letter references the operation of a large expansion without zoning approval at 407 North Avenue; the second references the industrial use of 224 East King Street in a mixed use area without special exception

approval. In both instances, Tucker Industrial Coatings may appeal to the Zoning Hearing Board within thirty (30) days. There was some discussion of the upcoming Department of Environmental Protection hearing to consider Tucker's application for three (3) additional paint booths in operation since 2006. If approved, Tucker must apply for Title 5 at the federal level due to excessive levels of toxins. Doris Sabine requested any comment from the meeting attendees. A comment was made stating that it appears that Council is attempting to drive Tucker Industries out of town. President Richards replied that this company has consistently neglected to comply with Borough Ordinances. Robert Clayton stated that all businesses in East Berlin must abide by the regulations and that Tucker has refused attempts to rectify the violations. Planning Commission Chairman John Schlaline noted that Tucker's recent sign violation has become a smokescreen clouding the other issues of the company, and that the media was manipulated into viewing the matter as one of patriotism rather than simply the size of the sign. *President Richards motioned to execute the zoning violation letters as approved by Attorney Charles Suhr; seconded by Robert Clayton. By roll call vote, the motion was approved with one (1) dissenting vote.*

Solicitor Shultis reported that the East Berlin Area Joint Authority was awarded an approximate four million dollar (\$4,000,000.00) H2O grant and approximate five million dollar (\$5,000,000.00) low interest loan for the purpose of constructing a new sewage facility. It was noted that the Borough and the Authority must act quickly to get documents in order for the October 1st loan closing with Pennvest. Attorney Frank Leber reviewed the background of the project and applications with H2O (Commonwealth Financing Authority) and Pennvest, reporting that the grant money awarded would cover forty-five percent (45%) of the total cost of the approximate nine million dollar (\$9,000,000.00) project. It was noted that the magnitude of the grant percentage is high above the norm. Fifty-five percent (55%) of the cost would rely on the twenty (20) year low interest loan at 2.5% for the first five (5) years and 3.172% for the remaining fifteen (15) years. Attorney Leber stated that these funds are generally awarded to shovel-ready projects, particularly those intended to service multi-municipal districts. These funds would likely not have been awarded unless the intended facility was regional in nature. Attorney Leber discussed the timeline of the tentative loan contract with Pennvest including advertisement for construction bids this week to be opened September 3, 2009. The guarantee of the Borough is requested by Ordinance to be enacted at the next Council Meeting of August 19, to be advertised August 14, with notice to the newspaper by August 12.

President Richards voiced concern of the sole guarantee of the East Berlin Borough when the new facility is also intended to service Hamilton Township and possibly Reading Township. Attorney Leber explained that Pennvest looks to the principle Municipality to guarantee the loan, noting that the H2O grant money alone covers the excess size of the facility (beyond the needs of the Borough) and it is expected that customer revenues will support the debt service. Additionally, this facility allows the opportunity for regional growth as supported by Pennvest's decision to award.

Inquiries were made as to the customer cost of the intended facility. Charles Eisenhart replied that rates will likely double, but a more definite estimate would be available upon the calculations of the Joint Authority Engineer. Mr. Eisenhart also noted that a lesser facility to service only the needs of the Borough would cost approximately five to six million dollars (\$5,000,000.00 to \$6,000,000.00) but would likely not be supported by grant or low interest loan funding, resulting in the same cost to the customer. President Richards stated that the concern is sharing the benefit but not the risk of the guarantee with the nearby Municipalities, and that this is an equitable opportunity, but the structure of the rates should be reviewed.

President Richards questioned Attorney Leber on the timeframe of the loan contract; should the demand for service outside the Borough materialize some years later, would partial loan monies no longer be available. Attorney Leber stated that construction usually lasts no longer than four (4) years. Charles Eisenhart suggested that incoming demand for service will be charged to connect and that the infrastructure should be in place.

Attorney Leber again reviewed the guarantee, advertising, and ordinance adoption processes, and the details of the Ordinance including the estimated payment schedule to be paid by the Joint Authority's revenue of water and sewer charges guaranteed by the Borough. President Richards inquired if amendments may be made to the Ordinance once advertised. Attorney Leber replied that the Ordinance may be adopted as amended. It was proposed to schedule a special meeting of Council to further discuss the Guaranty Ordinance on Monday, August 10, 2009 at 10:00 AM to be advertised immediately. Attorney Leber agreed to attend and conduct a briefing workshop and to answer questions or concerns.

Committee Reports:

Finance: Nothing to report.

Streets/Public Safety: Janet Bollinger met with Robert Meminger and Robert Clayton regarding quotes for painting crosswalks, both for thermoplastic and paint. A meeting is scheduled to discuss the guarantee of the previous work of Alpha Space Control. Manpower assistance is to be provided to Robert Meminger in painting curbs and crosswalks in the Borough. Mrs. Bollinger also noted that a local farmer has planted the Borough's field behind Dylans. Robert Clayton suggested that the field behind the East Berlin Manor Apartments be allowed to return to a natural state with an approximate fifteen-foot (15') path to be maintained between the field and the property owners.

Maintenance: Robert Clayton reported that curbs in the Borough have been sprayed with weed killer. It was noted that curb painting is to begin this week having been delayed by weather conditions. Robert Meminger will be attending an equipment and work safety training session provided by PennDOT on August 12. There was some discussion of obtaining assistance with snow and ice removal in the months ahead.

IT: Robert Clayton reported that a PA system with four (4) microphones has been installed in the Borough Hall meeting room at a cost of approximately six hundred dollars (\$600.00).

Planning/Zoning: President Richards discussed a Penn Township newspaper article describing the zoning violation notification process with the use of post cards pre-emptive to the official notice as a reminder rather than the imposing demand. With further zoning and code violations to be addressed, David Woodward supports the use of postcard notices prior to official notice.

Jan Hoffman reported that the Fire Hall would be made available for the September 7th Zoning Hearing at no charge to the Borough.

Planning Commission Chairman John Schlaline reported that Planning Commission Member Kenneth Young is currently reviewing electronic and hard copies of the Borough Code to produce a consistent and accurate version of the Code.

Personnel: Doris Sabine stated that part time or contracted help would be sought to assist Robert Meminger with certain Borough maintenance duties.

Park/Recreation: Park and Recreation Board Chairman Phil Keener reported that per Solicitor Shulis, the bid proposal documents from Conewago Enterprises for Phase One of the Community Park are in order. Solicitor Shulitis stated that Council approval is required to accept the bid. *Charles Eisenhart motioned to approve and execute the contract with Conewago Enterprises; seconded by Robert Clayton. Motion approved with all voting in favor.* Mr. Keener thanked Council for their support of the Community Park project.

Unfinished Business: President Richards reported that the meeting with the Human Relations Commission has been postponed. Mr. Richards also noted that a statement from the Borough regarding Tucker Industries'

sign violation has been sent to the editorial section of the newspaper, and that responses will be made to letters received from Representatives Will Tallman and Todd Platts on this issue.

New Business: It was reported that a new contract for refuse service in the Borough has been accepted from York Waste Management. To cover the higher cost of service, a Resolution to increase customer charges to forty-five dollars (\$45.00) per quarter is necessary. *Charles Eisenhart motioned to approve the Resolution; seconded by Janet Bollinger. The motion was approved with no dissenting votes.*

The Borough received a complaint that employees of the Joint Authority were witnessed leaving trash for curbside pickup in the Borough. President Richards stated that the Authority has requested joint use of the Borough's dumpster. There was some discussion of joint efforts between the Borough and the Authority. *President Richards motioned to allow joint use of the Borough's dumpster; seconded by Charles Eisenhart. Motion approved with all in favor.*

President Richards reported on his attendance of the Adams County Council of Governments meeting with the official implementation of COGs to be announced August 17, 2009. Mr. Richards also reported on his attendance of the Water Resource Advisory Committee meeting and the meeting of the York Adams Tax Bureau, noting that interest revenues are markedly decreased.

After some discussion of Dylans property owner's proposal to lay gravel to alleviate parking ruts alongside the road, President Richards recommends the Borough not accept the offer. This action would allow Dylans' customers to park on Borough property in a no-parking area.

A meeting is scheduled with the East Berlin Fire Company August 12 at 7:00 PM to discuss ownership and insurance cost of vehicles. A meeting is scheduled with the Historical Preservation Society the week of August 17th to discuss Colonial Day procedures.

Correspondence:

- A letter was received from Dillsburg Borough requesting Fire Police service
- A submission was made to the Pennsylvania Human Relations Commission
- PSAB Fall Leadership Conference is scheduled in Erie, Pennsylvania
- Opportunity to purchase updates to PA Related Laws Notebook
- Letter sent to Editor of the Hanover Evening Sun and York Daily Record
- Letters received from State Representatives Will Tallman and Todd Platts
- York Adams Smart Growth Meeting is scheduled
- Municipal Legal Update to be held at Sheridan in Harrisburg
- PSAB Basic Budgeting Training scheduled for August 20, 2009
- Mini Cobra Act passed to include small employers
- Conservation District Workshop is scheduled
- Adams County conducts an illegal dump survey

Charles Eisenhart motioned to adjourn the meeting of the East Berlin Borough Council at 10:15 PM; seconded by Janet Bollinger. Motion approved with all voting in favor.

Respectfully submitted,

Darlene McArthur
Secretary/Treasurer of Borough Council