

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

April 6, 2010

The first monthly meeting of the East Berlin Borough Council was held April 6, 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; David Woodward; and Andrew Raymond

Members Absent: Charles Philips

Also Present: Mayor Keith Hoffman; Solicitor Timothy Shultis; Secretary/Treasurer Darlene McArthur; Mary Earnst; Tim Stonesifer, Reporter for the Evening Sun; Sue Hess; Barbie McCarthy; Bob Greer; Patrick Fazzini; Phil Keener; and Jan Hoffman

Correction to the Minutes: The minutes of the meeting of March 17, 2010 were reviewed. *A motion to approve the minutes was made by David Woodward; seconded by Andrew Raymond. Motion approved with all in favor.*

Payment of Bills: A summary of bills for the beginning of April totaling \$20,845.26 was reviewed. President Richards noted that \$616.95 would be paid for the Christmas lighting electricity as a charitable contribution to the Lions Club. ~~Richard Cashman~~ *Robert Clayton* inquired if the Christmas lights would be coming down. President Richards responded that a letter would be written to the Lions Club requesting that the lights be taken down.

Richard Cashman stated that he would not approve payment of bills relating to zoning issues, does not support the Zoning Hearing Board on these issues, and would like a separate approval of the payment of these bills. *Richard Cashman motioned to pay the bills not relating to zoning issues; seconded by Andrew Raymond. Motion approved with all in favor. Robert Clayton motioned to pay the two (2) zoning related bills; seconded by David Woodward. Per roll call vote, David Woodward, Robert Clayton and David Richards approved payment of the zoning bills. Andrew Raymond, Richard Cashman, and Charles Eisenhart cast negative votes. In a tie-breaking decision, Mayor Hoffman cast a negative vote. The motion to pay the zoning bills was not approved by a vote of four (4) to three (3).* Solicitor Shultis interjected the possibility of discontinuing zoning legal expenses moving forward, but not retrospectively for incurred expenses, noting that agreements were signed with the service providers. Richard Cashman commented that the Borough has spent in excess of one hundred thousand dollars (\$100,000) on zoning enforcement efforts with the only accomplishment being the removal of a name from a banner. Mr. Cashman noted that his research determined that a municipality is not allowed to correct mistakes of the past. President Richards stated that the Borough is attempting to enforce the current Zoning Ordinance. Robert Clayton argued that Mr. Cashman's determination negates the Borough's Ordinances. *Richard Cashman motioned to withdraw from the ongoing zoning case; seconded by Andrew Raymond.* Solicitor Shultis urged Council to take Executive Session for the advice of the Solicitor following tonight's meeting.

Auditor's Report: Tom Maurer of Rotz & Stonesifer addressed Council regarding the 2009 audit. The regulatory report was filed with the Department of Community and Economic Development in a timely manner. A management letter was provided to Council to review deficiencies or weaknesses, noting that internal controls are in place. A recommendation was made to change general ledger numbers to match those of DCED. There was some discussion of employee pension fund deficiency. Mr. Maurer noted that there were no difficulties in performing the audit and that all documents had been provided. President Richards thanked Mr. Maurer for his informative report.

Constituents Addressing Borough Council: Phil Keener addressed Council on behalf of Robert Greer, President of the Board of Trustees of the East Berlin Community Library to remind Council of the upcoming community meeting to discuss the expansion of the library. The meeting is scheduled for 7:00 PM, April 26th at the Fire Hall.

Sue Hess inquired of the status of the proposed Clean Air Ordinance. President Richards stated that this would be discussed at the May meeting of Borough Council.

Mayor's Report: Mayor Hoffman reviewed the police report for March consisting of forty-five (45) incidents. Mayor Hoffman stated that he has been speaking with Robert Meminger regarding crosswalk signs to be placed soon, noting that twenty-five (25) additional signs have been requested.

Fire Company Report: On behalf of Lee Byers, Andrew Raymond thanked the Borough for placing stones on the dry hydrant near Dylan's. Mr. Raymond noted that a fire truck is currently in for service, and reviewed upcoming fund raising events.

Engineer's Report: President Richards reviewed a letter from Buchart Horn, Engineer for the Joint Authority, discussing the sewer construction project on Water Street. KPI Technology, the Borough's Engineer, estimates the cost to the Borough for reconstruction including sidewalk and curbing on Water Street to be \$288,749.42 for a thirty-two foot (32') cartway, and \$327,597.63 for a forty foot (40') cartway. It was noted that this would require a grant of at least \$100,000.00, without which, the street will be restored to the current condition from the water and sewer work placing laterals to allow for future sidewalk and curbing. The placing of laterals would require a survey to determine the right-of-way and property lines on Water Street. After some discussion of the availability of grant funding, President Richards stated that he will respond to Buchart Horn requesting that Water Street be restored to the current condition with laterals placed as discussed and proposed to share the cost of surveying with the Joint Authority. *President Richards motioned to have Water Street restored to its current condition and move ahead with the required surveying; seconded by Richard Cashman. Motion approved with all in favor.*

Solicitor's Report: Solicitor Timothy Shultis stated that regarding Workers' Compensation coverage for Andrew Raymond as the Borough's Emergency Management Coordinator, placing Mr. Raymond on payroll is permissible by Borough Code. It was noted, however, that per the Workers' Compensation Act, the Emergency Management Coordinator is entitled to receive compensation in the event of injury and urged that this determination be further evaluated by the Borough's insurance underwriters.

Committee Reports:

Finance: President Richards reported his attendance at the Earned Income Tax Committee Meeting on March 25th. Per Act 32, York Adams Tax Bureau was selected as the tax collection agency for Adams County. President Richards noted that the next meeting of the Committee is April 29, 2010, and requested an alternate delegate for the Borough to the Earned Income Tax Committee.

President Richards reviewed the 2009-2010 financial comparison report noting some differences including a 2010 insurance payment, a police legal fee for a deduction invoice, payoff of the Act 537 loan, and health care costs. Richard Cashman questioned the 2010 year-to-date deficit. President Richards explained that additional revenues are expected and discussed several one-time expenses. It was noted that the Yorco Hopwood request for insurance premium payment would be discussed in Executive Session.

Streets/Public Safety: A letter was received from the East Berlin Area Community Center regarding the proposed relocation of the basketball court stating that this project is not in the 2010 budget. It was noted that the backboards have been removed to prevent conflict with parking.

Maintenance: Robert Clayton reported that a survey of road and asphalt problems was submitted to members of the Maintenance Committee and the Streets/Public Safety Committee. Street sweeping has been completed and grass cutting has begun on Borough property. President Richards discussed several streets in need of crack repair and the possible collapse of a drainage ditch under North Avenue. There was also some discussion of the necessity of a stop sign at an intersection ending on Water Street, but it was deemed unnecessary.

IT: Nothing to report.

Planning/Zoning: President Richards reviewed proposed changes to the Planning Commission By Laws. There was some discussion of the procedure of Council approval. *Robert Clayton motioned to approve the revised By Laws for adoption by the Planning Commission; seconded by David Woodward. Motion approved with all in favor.* President Richards proposed that the Planning Commission address several long term issues in the Borough including equipment replacement, capital projects, and employee issues. It was suggested that a Council Member attend meetings of the Planning Commission to exchange input on these issues.

President Richards presented Ordinance 2010-2 to add alternate members to the Zoning Hearing Board. *David Woodward motioned to send the proposed Ordinance to Adams County for comments and for advertisement if satisfactory to the County; seconded by Robert Clayton. Motion approved with all voting in favor.*

David Woodward discussed occupancy permit problems with a business located in the former Nell's building, suggesting that a letter be sent to Keystruct, the property owner, to inform them of the issue. *David Woodward motioned to send the letter to Keystruct; seconded by Robert Clayton. Motion approved with no dissenting votes.*

Personnel: Nothing to report.

Park/Recreation: Phil Keener reported that the skate park signs, as approved by the Solicitor and the Borough's insurance underwriter, have been ordered. There was some discussion of the intention that the skate park is to be unsupervised, noting that this meets the requirements of the insurance underwriter. Mr. Keener reported that the required waivers and corresponding helmet stickers have been ordered. After some discussion of the method to spot check the skate park participants for waiver stickers, Mr. Keener stated that this could be done by Park and Recreation Board Members, Borough maintenance workers, Officer Grim, Council Members, etc.

President Richards requested that the Park and Recreation Board consider proposed changes to the By Laws and submit a revised version to Council for approval. Mr. Keener stated that the Board would review the changes.

Unfinished Business: None.

New Business: President Richards presented a letter received from the East Berlin Area Community Center regarding revisions to the Constitution and By Laws of the Community Center. President Richards recommends that Council oppose the changes regarding the process of member appointment based on specific talents needed, and responded with a letter to Mr. Robert Todd, President of the Community Center.

Correspondence: A letter was sent in response to several concerns of a resident of the Borough. Letters were sent to State Senator Richard Alloway, II, State Representative Joseph H. Brennan, and State Senator

Lisa Boscola stating opposition to the passage of House Bill 1500 in its current form. House Bill 1500 would require the expense of 24/7 police coverage in the Borough.

The minutes of meeting were closed at 9:17 PM for an Executive Session to consult with Solicitor Shultis on the continuation of Borough participation and payment of legal fees incurred in the zoning hearing with regard to Tucker Industrial Liquid Coatings, and to discuss an unsupported claim for previously incurred insurance expenses. At 10:11 PM, Council came out of Executive Session.

Mr. Cashman moved to withdraw his motion to cease further participation in the zoning hearing case. It was seconded by Mr. Clayton. Per roll call vote: Mr. Eisenhart, Yes; Mr. Cashman, Yes; Mr. Clayton, Yes; Mr. Woodward, Yes; Mr. Richards, Yes; Mr. Raymond, Yes. Motion passed, 6-0.

Council Member Andrew Raymond left the meeting for work-related issues.

It was moved by Mr. Woodward to pay the legal expenses excluded by the previously passed motion from the listed bills for payment. Mr. Clayton seconded the motion. Per roll call vote on the motion: Mr. Eisenhart, No; Mr. Cashman, No; Mr. Clayton, Yes; Mr. Woodward, Yes; Mr. Richards, Yes. The motion passed, 3-2.

Mr. Clayton moved to send a letter of reply to Hopwood Insurance on their unsupported claim for reimbursement of past insurance costs, and to request a supporting letter from the East Berlin Area Joint Authority. The motion was seconded by Mr. Woodward, and passed unanimously by voice vote. The letter is to be reviewed by the Borough solicitor.

Robert Clayton motioned to adjourn the meeting of the East Berlin Borough Council at 10:20 PM; seconded by Charles Eisenhart. Motion approved with all voting in favor.

Respectfully submitted,

Darlene McArthur
Secretary/Treasurer of Borough Council