

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

June 16, 2010

The second monthly meeting of the East Berlin Borough Council was held June 16, 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; David Woodward; and Charles Philips

**Members Absent:** Andrew Raymond; Richard Cashman; Mayor Keith Hoffman

**Also Present:** Solicitor Timothy Shultis; Secretary/Treasurer Darlene McArthur; Kenneth Young; Frank Schuhart; Janet Bollinger; Earl Bollinger; Mary Earnst; Patrick Fazzini; Jonathan Schardt; and Jan Hoffman

**Correction to the Minutes:** The minutes of the meeting of June 1, 2010 were reviewed. *A motion to approve the minutes was made by Charles Philips; seconded by Robert Clayton. Motion approved with all in favor.*

**Payment of Bills:** A summary of bills for the end of June totaling \$22,185.00 was reviewed. President Richards commented on the payment of \$36.98 to the Adams County Tax Collection Committee for the Borough's weighted portion of the Committee's budget expense at 4/10<sup>th</sup> of a percent, noting that there is a proposal in the State Legislature to eliminate the weighted vote system. The bills also include a payment of \$3,128.00 to the Commonwealth of Pennsylvania to correct the 2008 overpayment of state aid received for the Borough's pension plan. It was noted that the bills include the last payment to be made to Terry Black on Tucker Industries' air quality issues. An engineering services bill in the amount of \$1475.50 will be paid from the General Fund as this Liquid Fuels Project has reached a threshold of ten percent (10%) allowance for engineering costs. An invoice from Starcom Solar in the amount of \$2,549.00 will be paid for the Fire House Project solar-powered flashing warning signal. *Robert Clayton motioned to pay the bills for the end of June; seconded by Charles Philips. Motion approved with all voting in favor.*

**Constituents Addressing Borough Council:** Kenneth Young of 203 Beaver Street addressed Council regarding the recent zoning hearings for Tucker Industries. Mr. Young quoted statements of the late ~~Jean Gene~~ "Doc" Swartz, protesting the culture of corruption in East Berlin. The hearing testimonies of T. Michael Thoman, Raeann Hamon, and Randy Tate were referenced as well as the recent petition requesting that Council end legal proceedings against Tucker Industries. Mr. Young noted that, in obtaining petition signatures, Mrs. Hamon and Mr. Tate did not convey the true reason for the proceedings as Rule of Law. It was inferred that the Borough was controlled by the collusive acts of the former Council and P.H. Glatfelter, alluding to the removal of trees and environmental damage in Kuhn's Woods (Lafayette Park). Mr. Young commented that \$200,000 was spent in efforts to prohibit the establishment of a trailer park in the area of the new Community Park and that zoning regulations were selectively enforced throughout the Borough. Mr. Young stated that it would be a criminal act for the Zoning Hearing Board to grant the special exception requested by Tucker Industries.

**Mayor's Report:** Nothing to report.

**Fire Company Report:** Jonathan Schardt of Liberty Fire Company reported thirty (30) fire calls and sixty-five (65) ambulance calls for the month of May. There was some discussion of the primary and secondary response areas of Liberty Fire Company. The primary areas were named as East Berlin Borough, Hamilton Township, Paradise Township, Reading Township, and Washington Township noting that these municipalities share in the cost of Workers Compensation coverage for the fire fighters and ambulance crews.

**Engineer's Report:** President Richards reviewed a memorandum submitted by Craig Zack of his observations and suggestions in alleviating the hazards of the intersection of Fourth Street and South Alley including the

installation of mirrors, sidewalks, or one-way street passage. It was noted that per the photographs included in the memorandum, there is a four foot (4') section in front of the buildings before reaching the intersection allowing for reasonable visibility, and that there have been no recordable accidents at this intersection. *President Richards motioned to make no change to the intersection at this time; seconded by Robert Clayton. Motion approved with no dissenting votes.*

Regarding a request for handicapped parking on Beaver Street, Mr. Zack's review determined that the residents have off-street parking and the street is very narrow in this area. Although it is not prohibited in this area, Mr. Zack advises against promoting parking on the street due to the narrowness. Charles Philips suggested that a letter of explanation be sent the resident. President Richards stated he would send the letter.

President Richards reported that the required performance bond was received from Gregory Contractors for the Borough Office Drainage Relocation Project. The bond will be reviewed by the Solicitor and Engineer.

**Solicitor's Report:** Nothing to report.

**Committee Reports:**

**Finance:** President Richards stated that certain financial items would be discussed in the Personnel Report. It was noted that Adams County would be adopting a new pension plan policy which was requested for review by the Borough.

**Streets/Public Safety:** Regarding the Adams County Council of Governments' line painting program, President Richards reported that the Borough would receive a significant discount for participation. There was some discussion of the quality of the materials used, noting that they must be PennDOT compliant or better. An agreement will be signed between the Borough and Alpha Space Control listing the quantities and prices of the materials to be used.

**Maintenance:** Robert Clayton reported that the asphalt repair work on North Avenue has been delayed due to weather and would commence on June 18<sup>th</sup>. It was noted that the previously discussed agreement with Alpha Space Control for line painting would be effective through the end of the year. The field behind Subway was mowed by Alvin Shenk in exchange for the hay and the field behind Dylans has been sprayed and planted by Larry Boyer. Arrangements for installing the firehouse warning signs will be made during the next week. Robert Meminger and Donald Myers attended a PA One Call Safety Fair receiving \$100 worth of crack sealing material from the QPR vendor. The Conewago Creek sign is ready for placement in its original position on West King Street. PennDOT will be contacted to remove the sign erected in its place. With the completion of the bridge work on West King Street, it was noted that a truck restriction sign will be placed at the northern entrance to Beaver Street. The southern entrance sign is in place.

**IT:** Robert Clayton stated that at some point Robert Meminger's computer would be switched for the office spare computer due to technical problems.

**Planning/Zoning:** David Woodward reported that the Adams County Comprehensive Plan is being finalized noting a focus on the Hamilton Township Route 194 development plans. With regard to the Route 94/194 corridor, Jan Hoffman commented that Hamilton Township is strongly represented at the Comprehensive Plan meetings in comparison with other municipalities. A recommendation was made to provide diagonal parking on Route 234, which would narrow the street to allow a lower speed limit. Charlie Eisenhart noted that this would require approval from the State. Jan Hoffman suggested that East Berlin consider an identifying sign, such as those in New Oxford and Abbottstown, to distinguish the characteristics of the town. Some examples included historical aspects or the peninsula shape of the Borough.

**Personnel:** In a discussion of employee disability insurance, Robert Clayton recommended the policy be discontinued. Charlie Eisenhart noted that to his knowledge, the policy has never been utilized by any employee. It was suggested to allow the carryover of sick days in lieu of disability insurance. A meeting of the Personnel Committee is scheduled for Monday, June 21 at 10:00 AM to discuss these changes. *Charles Philips motioned to discontinue the employee disability policy; seconded by Robert Clayton. Motion approved with all in favor.*

In a review of the April 2006 change of the Non-Uniformed Pension Plan, it was determined that the adoption of Ordinance 2006-3 was improper having not been advertised or open to public comment. The change in the plan increased the Final Average Salary from forty percent (40%) to sixty percent (60%), increasing the unfunded liability to \$117,000 and increasing the annual cost of the plan \$12,000. Following the fund withdraw for the retirement of the former Borough Manager in 2008, the fund balance decreased from \$288,000 to a negative (\$56,000), and in 2009 an additional retirement and the transfer of the Joint Authority employees brought the balance to a negative (\$153,000). The distributed explanatory table is attached to these minutes. President Richards suggested that before additional changes are made, there would be a review of the revised Adams County Pension Plan.

**Park/Recreation:** President Richards noted that comments had not yet been received from the Park and Recreation Board regarding the revised By Laws. It was noted that twelve (12) waivers have been signed thus far for use of the skate park.

**Unfinished Business:** In a discussion of the proposed Air Quality Ordinance, Robert Clayton suggested that some changes are needed. President Richards requested that Council's comments be submitted for Sue Hess. President Richards noted that the proposed Solar Power Ordinance would be amended in referencing the specifications of permit fees of other municipalities. Solicitor Shultis commented that this is a zoning issue and must be submitted to Adams County for review.

**New Business:** The Borough received notice from Osman Environmental Solutions of Tucker Industries' Title 5 application. President Richards requested and received a copy of the application which is available for review in the Borough Office. Comments on the application are due to Mr. William Weaver of the Department of Environmental Protection by ~~July 3~~ **July 7, 2010.**

**Correspondence:** Letters were sent to Gregory Contractors and East Berlin Excavating regarding permit requirements for excavation of streets. An invitation to join a Webinar on avoiding and reducing insurance claims was received from PSAB and will be attended by Secretary/Treasurer Darlene McArthur. A request for the Borough's sponsorship of Christmas in Rocky Ridge was received from York Park and Recreation. Per an article in the PSAB Borough News, a reward was granted for generating a five-year budget. President Richards commented that a three-year budget could be achieved with the assistance of the Planning Commission. An Emergency Management Handbook was received from the State for Council review. An article was received from Adams County Department of Emergency Services for Council review.

The minutes of the meeting were closed at 8:50 P.M. for Executive Session regarding litigation relating to storm water issues. Council came out of Executive Session at 9:02 P.M.

*Charles Philips motioned to adjourn the meeting of the East Berlin Borough Council at 9:03 PM; seconded by Robert Clayton. Motion approved with all voting in favor.*

Respectfully submitted,

Darlene McArthur  
Secretary/Treasurer of Borough Council

**EFFECT OF 2006 PENSION PLAN CHANGES ON BOROUGH FINANCES  
AND EMPLOYEE COMPENSATION**

A. Adoption of Ordinance 2006-3 Changing the Non-Uniformed Pension Plan

It appears that the Ordinance adopting the Retirement changes (Ord. 2006-3, April 5, 2006) was not advertised and was not made available for public comment. There was no previous indication retirement benefits were being reviewed, and limited discussion before adoption. There was no showing of the financial effects on the Borough, or the increased retirement benefit given to the sole eligible employee. There was no comparison made to the Uniformed Retirement Plan.

B. Immediate Cost to the Borough of Changing Plans

	<u>Retirement</u> As % of <u>Compensation</u>	<u>Unfunded</u> <u>Liability</u>	<u>Increase in</u> <u>Unfunded</u> <u>Liability</u>	<u>Total</u> <u>Liability</u>	<u>Annual</u> <u>Cost</u>
Under Previously Existing Retirement Plan (40%)					
2005	10.20%	\$92,295	\$0	\$92,295	\$26,128
Under 2006 Adopted Retirement Plan (60%)					
2009	13.32%	\$92,295	\$116,918	\$209,213	\$38,857
Difference	3.11%	\$0	<u>\$116,918</u>	<u>\$116,918</u>	<u>\$12,729</u>

*Source: letter from PMRS to East Berlin Borough dated 1/30/06.*

C. Assets Held or Unamortized Liability Shown by PMRS

2005	\$196,133	2008	-\$ 56,672 effect of retirement (-\$345,149 reduction)
2006	\$235,478	2009	-\$153,454 effect of employee transfer, additional retirement
2007	\$288,747		

*Source: PMRS Annual Reports to the Borough*

D. Benefit to the Single Eligible Retiring Employee Under the Revised Plan

Average (3 years) Yearly Wage = \$61,165  
 Eligible Retirement Multiple (35 years x 2.07%/year = 72.45%)  
 Compensation Ceiling Percentage Under Retirement Plan  
 2005 @ 40% = \$61,165 x .40 = \$24,466  
 2008 @ 60% = \$61,165 x .60 = \$36,699  
 Unsupported Benefit Increase: \$12,233 per year  
*Wage source: Quarterly wage reports to PMRS.*

E. Ceiling Percentage for Uniformed, Non-Uniformed Retirees

1. Previous Non-Uniformed Employee Ceiling	40.0%
Adopted Non-Uniform Employee Ceiling	60.0%
2. Uniformed (Police) Employee Ceiling	50.0%

*Source: Actual PMRS retirement plans.*

F. Current Non-Uniformed and Uniformed Plan Benefits

	<u>Accrual</u> <u>Rate</u>	<u>Retirement</u>			<u>Disability</u>		<u>Death Benefit</u>
		<u>Voluntary</u>	<u>Age</u>	<u>Vesting</u>	<u>Work</u>	<u>Other</u>	<u>Present Value</u>
Non-Uniform	2.07%	20 years	62	5 years	100%	100%	
Uniform	2.00%	20 years	55	10 years	50%	30%	50%

*Source: PMRS Uniformed Retirement Plan, Schedule C*