

January 7, 2008

EMMAUS BOROUGH COUNCIL

Emmaus Borough Council
Agenda
Monday, January 7, 2008, 7:00 PM

1. Judge Donna Butler will Administer the Oath of Office to:

 Councilmember Nathan Brown
 Councilmember Brian Holtzhafer
 Councilmember Lee Ann Gilbert
2. Remarks by Judge Donna Butler
3. Call to Order
4. Pledge of Allegiance
5. Reorganization of Council

 Mayor Iobst will preside over the Council meeting by asking for:
 - a. Nominations for President of Council
 - b. Nominations for Vice President of Council
6. Personal Appeals, Part I
7. Reading of Minutes

 December 17, 2007
8. Decision of Bids

 Lawn Mowing/Trimming Services
9. Communications
 - a. Nick Nonnemacher – Interest in Volunteering to Serve on Committees
 - b. Philip Valenti, LaRouchePAC – Requesting support for Homeowners and Banks Protection Act
 - c. Leslie Heffron – Requesting Street Closures for Snowblast Winter Festival
10. Borough Engineer's Report

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11. Solicitor's Report
 - a. **Ordinance No. 1036** – Vacating/Relocating Portion of Bank Street – (2nd Reading 1/7/08)
 - b. **Ordinance No. 1037** – Prohibiting the Feeding of Waterfowl on Borough Owned Property – (1st Reading 1/7/08)
12. New Business
13. Unfinished Business
 - a. 90-Day Trial Period – Four-way Stop Sign (Keystone/Pine) (Expires 3/13/08)
 - b. 90-Day Trial Period – No Parking on Section of Arch Street (Expires 3/13/08)
 - c. 90-Day Trial Period – Two Hour Parking on Section of Chestnut Street (Expires 3/13/08)
14. Items Not On Agenda, Subject to Rule 6
15. Mayor's Report
16. Committee Reports

Committee Reference for Council Members & Solicitor

 - a. 2008 Appointments (R-1) – **General Administration**
 - b. 2008 Board/Commission Re-appointments (R-2) – **General Administration**
 - c. Appointment to Civil Service Commission – **General Administration**
 - d. Appointment to Snow/Weed Control Officer – **General Administration**
 - e. Bill List (R-3) – **Budget & Finance**
17. Personal Appeals, Part II
18. Borough Manager's Report
 - a. Significant Revenue and Expense Items for December 2007
 - b. Manager's Report
19. President's Business

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20. Adjournment

Next Resolution #4
Next Ordinance #1038

The Emmaus Borough Council met in regular session on January 7, 2008 in Borough Council Chambers, 28 S. 4th Street, Emmaus, PA 18049.

Judge Donna Butler administered the Oath of Office to new Council Members Nathan Brown and Brian Holtzhafer and incumbent Council Member Lee Ann Gilbert.

CALL TO ORDER

Mayor Iobst called the meeting to order at 7:05 p.m.

Council President Neely thanked the Mayor for all his work that he's done for the Borough and said that, even though the Mayor was criticized for not attending Council meetings, he has done all his mayoral duties and has been an incredible asset to the Borough over the years. Mayor Iobst explained that he had health issues last year, but starting 2008 he has a clear bill of health. He said that he did keep up with the news and the Police Chief.

Council Member Neely nominated Michael Waddell as Council President. No other nominations were made.

There were 7 ayes.

Council Member Barrett nominated Craig Neely as Council Vice President. No other nominations were made.

There were 6 ayes, 1 abstained (Neely).

Michael Waddell, President	Present
Craig Neely, Vice-President	Present
Brent Labenberg	Present
Lee Ann Gilbert	Present
Wesley Barrett	Present
Nathan Brown	Present
Brian Holtzhafer	Present
Winfield Iobst, Mayor	Present
Frank Procyk, Solicitor	Present
Bruce Fosselman, Borough Manager	Present

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President Waddell welcomed Donna Butler and Council Members Holtzhafer and Brown.

PERSONAL APPEALS, PART I

- A. Leslie Heffron 981 Little Lehigh Dr.** representing the Emmaus Arts Commission said that the plans are being finalized for the 2nd Annual Winter SnowBlast on January 18-19, 2008. Under tonight's communications, the Arts Commission is requesting some street closings for the festival, which Mayor Iobst approved. Ms. Heffron confirmed with Council that there are no restrictions for a horse and carriage. Council Member Labenberg requested that they keep the streets clean from the horses. The Arts Commission requested a Police Officer for the Triangle on Friday night during the ice sculpting. Normally the ice sculptures are placed in front of businesses, but this year they would also like to place them around town at corners on the sidewalk. Solicitor Procyk stated that the handicapped areas cannot be blocked. Weather permitting on Saturday they will be blowing snow on the triangle, at the Library, and at the retention pond behind the Kiwanis baseball field. Council Member Barrett said that Jeff Clapper suggested installing a pressure reducer on the fire hydrant that will be used. Council Member Labenberg asked that they be aware of the time that they're blowing the snow in a residential area. President Waddell thanked Leslie for all her hard work.
- B. Otto Slozer 121 E. Elm St.** congratulated the new Council Members and wished Council luck in their endeavors. He confirmed with Borough Manager Fosselman that the current real estate rate is 10.77 mills and asked if there were plans to review the budget for adjustments, but there was no interest. Mr. Slozer also asked if the suit with Vin Art and Associates has been resolved. Solicitor Procyk said there was a decision made by the court, which was along the same lines as the one from Judge Black.

READING OF MINUTES

Motion by Council Member Neely, second by Council Member Gilbert to dispense with the formal reading of the December 17, 2007 minutes. There were 7 ayes. Motion carried.

Council Member Holtzhafer pointed out on page 225, the minutes read that the duck eggs need to be greased, but he thought it was the goose eggs that needed to be greased. Council Member Barrett said that both ducks and geese are attracted to each other, so probably both need to be grease, but he did say goose eggs during his December 17th report. Minutes changed.

Motion by Council Member Neely, second by Council Member Barrett to adopt the December 17, 2007 minutes as amended. There were 5 ayes, 2 abstained (Brown and Holtzhafer were not on Council). Motion carried.

DECISION ON BIDS

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Borough Manager Fosselman said there were three bids received for the 2008-2010 Lawn Mowing Services. Staff recommends awarding the bid to Allyear, Inc. for a total of \$141,286.50 for the three years.

Motion by Council Member Labenberg, second by Council Member Barrett to award the 2008-2010 Lawn Mowing and Trimming Services to Allyear, Inc. for a total of \$141,286.50 for the three years. There were 7 ayes. Motion carried.

COMMUNICATIONS

- a. Nick Nonnemacher – Interest in volunteering to serve on Committees. Referred to the General Administration Committee.
- b. Philip Valenti, LaRouchePAC – Requesting support for Homeowners and Banks Protection Act. Referred to the Budget and Finance Committee.
- c. Leslie Heffron – Requesting street closures for SnowBlast Winter Festival, which was handled under Personal Appeals Part I.
- d. Council Member Neely said he received an anonymous letter. Council cannot read anonymous letters or take them into consideration.

BOROUGH ENGINEER'S REPORT

None

SOLICITOR'S REPORT

Solicitor Procyk presented Ordinance No. 1036 for its 2nd Reading.

Motion by Council Member Barrett, second by Council Member Gilbert to read Ordinance No. 1036 in short title. There were 7 ayes. Motion carried.

President Waddell read Ordinance No. 1036 in short title: An Ordinance Vacating and Relocating that Portion of Bank Street that Transverses Certain Properties at South Seventh Street and Chestnut Street to Allow for the Construction of a CVS Pharmacy with a Drive-Thru.

Council Member Holtzhafer requested to see a plan. Attorney Kate Durso presented the plan to Council Members Holtzhafer and Brown. Mr. Holtzhafer confirmed with Ms. Durso that all resident concerns were addressed. Council Member Labenberg stated that CVS went up and beyond with resident concerns. Council Member Neely agreed and said that CVS went out of their way to make themselves part of the community. Mr. Brown asked if traffic flow was a concern or having a left turn signal west bound at the intersection of Chestnut and 7th Street. Ms. Durso said she wasn't involved much with traffic issues, but PennDOT's main concern was how Bank Street currently intersected with the Chestnut & 7th Streets.

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Motion by Council Member Neely, second by Council Member Holtzhafer to adopt Ordinance No. 1036 on its 2nd Reading. Roll Call Vote: Labenberg aye, Holtzhafer aye, Barrett aye, Brown aye, Neely aye, Gilbert aye, Waddell aye. Motion carried.

Solicitor Procyk announced that under the Borough Code there is a 40-Day waiting period for that Ordinance to become effective.

Solicitor Procyk prepared Ordinance 1037 for its 1st Reading.

Motion by Council Member Labenberg, second by Council Member Brown to read Ordinance 1037 in short title. There were 7 ayes. Motion carried.

President Waddell read Ordinance 1037 in short title. An Ordinance Amending the Provisions of Chapter 2, with the Addition of Sections 501 & 502, Prohibiting the Feeding of Waterfowl on Borough Owned Properties.

Motion by Council Member Barrett, second by Council Member Gilbert to approve Ordinance 1037 on its 1st Reading.

Council Member Barrett confirmed with Solicitor Procyk that the Ordinance was changed so that the fine amount would be up to \$100.00 for each offense. Council Member Holtzhafer asked what the reason was to have the Ordinance. Mr. Barrett said that this issue came up a few times over the years. Council received a letter in October 2007 with concerns of using the park and the geese droppings. Currently the most notable case is at Furnace Dam, but the ordinance is for any Borough property because the geese may move to another location. Council Member Labenberg said that this was also recommended by Jeff Clapper, Public Works Director, because when people rented Furnace Dam they couldn't play volleyball or use the facility the way they should be able to use it. Mr. Holtzhafer stated that he will vote against this because he knows many people who feed the waterfowl at Furnace Dam. He would be happy if the Borough attempted to alleviate the geese situation without taking away feeding the ducks. Mayor Iobst stated that, as he did in the past, he will veto this ordinance because he agrees with Mr. Holtzhafer. He said that years ago Furnace Dam was a habitat and then the Borough built a pavilion. The Mayor feels there should be a place for people who enjoy feeding the animals, including the children from the Rodale Daycare. Council Member Barrett asked the Mayor if he had any other suggestions to rectify the geese problem. The Mayor agrees that the geese can be a pain and are naturally attracted there because of the food, but he doesn't want to take the feeding away because there are residents and daycare children that have enjoyed feeding for years. Mr. Holtzhafer said that the ducks are not the problem, the geese are, and by stopping the feeding of waterfowl is not the solution. He feels that the strategies of greasing the goose eggs and also making an unpleasant environment for them, like harassing them with dogs, works. Mr. Labenberg said that he voted against this the first time, but is in favor of it this time because the issue of the pavilion rental wasn't brought up before, it was just because the geese were there. He feels there's a health issue when picnic foods are surrounded by geese droppings. Another issue is that the stocked dam can become unhealthy for the fish due to the geese dirt. Mr. Barrett said the Borough received a letter from Rodale with concerns to the geese dirt and the daycare

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children. Another strategy previously discussed was spraying a grape abstract on the grass to make it taste bad to the waterfowl. Council Member Neely commented that if the Mayor is against it, he is too. Mr. Labenberg confirmed with Solicitor Procyk that if this is vetoed by the Mayor it can come back to Council and a 5-2 vote would override the veto. Mayor Iobst stated that he will veto this ordinance. Council Member Brown asked if the language could be changed from “waterfowl” to “geese”. Mr. Barrett said that one reason that the geese are there is because of the ducks, so eliminating one you can’t eliminate the other.

Roll Call Vote: Neely nay, Brown aye, Gilbert aye, Labenberg aye, Barrett aye, Holtzhafer nay, Waddell aye. Motion carried.

Progress

NEW BUSINESS

None

UNFINISHED BUSINESS

- a. 90-Day Trial Period – Four-way Stop Sign (Keystone/Pine) (Expires 3/13/08)
- b. 90-Day Trial Period – No Parking on Section of Arch Street (Expires 3/13/08)
- c. 90-Day Trial Period – Two Hour Parking on Section of Chestnut Street (Expires 3/13/08)

ITEMS NOT ON AGENDA, subject to Rule 6

None

MAYOR’S REPORT

Mayor Iobst received a letter from Part-Time Police Officer, William Nahrgang, resigning from his position.

Progress

COMMITTEE REPORTS

- a. Public Works Committee
- b. Health and Sanitation Committee
- c. Parks and Recreation Committee
- d. Public Safety Committee
- e. General Administration Committee

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Council Member Neely presented and read Resolution 2008-1 appointing officials for a term to expire January 5, 2009.

RESOLUTION 2008-1

BE IT HEREBY RESOLVED by Emmaus Borough Council to appoint the following officials to their designated positions for a term to expire January 5, 2009.

Ambulance Corps Chief	Mike Nonnemacher
Animal Control Officer	Richard Hontz
Borough Manager/Secretary	Bruce E. Fosselman
Borough Treasurer	Christine L. Snyder
Certified Public Accountant	France/Anderson
Emergency Management Coordinator	Dean Bruch
Engineer (General)	Rettew
Engineer (Water/Sewer)	Hanover Engineering
Fire Chief	James Reiss
Health Officer	Garry Ritter
Pension Consultant-Police/Non-Uniform	Conrad Siegel
Public Works Director	Jeffrey Clapper
Asst. Public Works Director	John Dychala
Public Works Inspector/ Code Enforcement Officer	James Farnsworth
Solicitor	Fronzone & Ashley
Civil Service Commission Solicitor	Jeffrey Dimmich
Zoning Hearing Board Solicitor	Ronald Corkery

DONE this 7th day of January, 2008.

Motion by Council Member Neely, second by Council Member Gilbert to adopt Resolution 2008-1. There were 7 ayes. Motion carried.

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Council Member Neely presented and read Resolution 2008-2 appointing Board members.

Resolution 2008-2

BE IT HEREBY RESOLVED by Emmaus Borough Council to reappoint the following Board members for terms to expire as designated below:

Reappointments – 2008

<u>Board or Commission</u>	<u>Name</u>	<u>Term</u>	<u>Expiration</u>
Board of Health	Dr. David Burmeister	5 yrs.	1/1/2013
Building Board of Appeals	Theodore Iobst II	5 yrs.	1/1/2013
Emmaus General Authority	Richard Gerhart	5 yrs.	1/1/2013
Emmaus Library Board	Jeannette Lehman	3 yrs.	1/1/2011
	Richard Brooks	3 yrs.	1/1/2011
Shade Tree Commission	Everett “Reds” Bailey	5 yrs.	1/1/2013
Zoning Hearing Board	Roger Steinmayr	3 yrs.	1/1/2011
	Benjamin Fetterman (Alternate)	3 yrs.	1/1/2011

DONE this 7th day of January 2008.

Motion by Council Member Neely, second by Council Member Barrett to adopt Resolution 2008-2.

Council Member Labenberg asked if these positions were advertised and if people were interviewed. Council Member Neely said that only the positions interviewed were ones where more than one person was interested or had new people. Mr. Labenberg confirmed with Mr. Neely that only Mr. Gerhart was interested in the General Authority position.

There were 7 ayes. Motion carried.

The Committee received an application from David Wigfield expressing his interest to serve on the Civil Service Commission; no applications were received from a Civil Service Commission Member.

Council Member Neely made a motion, seconded by Council Member Barrett, to appoint David Wigfield, but since Mr. Neely will abstain from voting Solicitor Procyk suggested that he

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not make the motion. Mr. Neely withdrew his motion and Mr. Barrett withdrew his seconded motion.

Motion by Council Member Gilbert, second by Council Member Barrett to appoint David Wigfield to the Civil Service Commission with a term expiring January 1, 2014.

Council Member Labenberg asked if there's an ordinance against being members of multiple boards and commissions. Borough Manager Fosselman stated that Mr. Wigfield agreed to withdraw from the Shade Tree Commission if appointed to the Civil Service Commission.

There were 6 ayes, 1 abstained (Neely is a friend of Wigfield). Motion carried.

The Committee interviewed for the Snow/Weed Control Officer to replace Brian Holtzhafer. Mr. Holtzhafer stated that he was paid \$8.00 per hour, up to 20 hours per week. He could have submitted for mileage, but never did. Mr. Holtzhafer publicly requested to resign as the Snow/Weed Control Officer.

Motion by Council Member Neely, second by Council Member Gilbert to accept Brian Holtzhafer's resignation as the Snow/Weed Control Officer. There were 6 ayes, 1 abstained (Holtzhafer). Motion carried.

Motion by Council Member Neely, second by Council Member Barrett to appoint Jim Woodeshick as the Snow/Weed Control Officer.

Mayor Iobst stated that he'd be happy to see Mr. Woodeshick in this position. He sees him all over town and he knows that he'll do a great job.

There were 7 ayes. Motion carried.

Progress

f. Budget and Finance Committee

Motion by Council Member Neely, second by Council Member Labenberg to adopt the January 7, 2008 Bill List.

Bill List	\$ 257,913.39
Payroll #26 & 1	\$ 216,527.33
Payroll Taxes	\$ 71,312.66
Total	\$ 545,753.38

Done this 7th day of January 2008. There were 7 ayes. Motion carried.

g. Community Relations/Development Committee

h. Ad Hoc Committees

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Community School Relations

PERSONAL APPEALS, PART II

- A. **Jenae Holtzhafer 1207 S. 10th St.** said that the concern at Furnace Dam is valid and that the issue is the geese. She and her children have already taken pieces of bread to feed at Furnace Dam, but she believes that the problem is the people that take buckets of feed to the Park every day. Ms. Holtzhafer would like to see another solution other than banning feeding. Borough Manager Fosselman will check into the similar ordinance for the City of Allentown.

BOROUGH MANAGER'S REPORT

Borough Manager Fosselman reminded everyone that the Borough Ordinance states that after a snow storm, property owners are given 24 hours to clear their sidewalks of snow and ice. Snow and ice cannot be placed within the travel portion of the roadway. During the last storm, Council Member Holtzhafer issued at least 45 notices and the Borough's contractor cleared at least 12 properties. Council Member Labenberg feels that repeat offenders should be sited.

The Council Meeting Rules and Regulations will be reviewed and voted on at the next meeting.

PRESIDENT'S BUSINESS

President Waddell thanked Mr. Neely for his six years as President of Council. He said that no one loves their community as Mr. Neely loves his community and that he made being president look easy. Mr. Neely said his job was made easy because Council Members who care about their community and that made decisions based on what they thought would be best for their community. Dr. Waddell said he was amazed after hearing the Borough Manager's report at the last meeting and all the accomplishments that were done in one year. He feels it's a great honor and privilege to be part of one of the top 100 places to live in the country.

President Waddell asked Council to email their Committee requests to him.

ADJOURNMENT

Motion by Council Member Neely, second by Council Member Barrett to adjourn. There were 7 ayes. Motion carried.

The meeting of Emmaus Borough Council adjourned at 8:10 p.m.

Bruce Fosselman
Borough Manager

Transcribed by: Renea Flexer
Administrative Assistant

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January 10, 2008