

April 21, 2008

EMMAUS BOROUGH COUNCIL

Emmaus Borough Council  
Agenda  
Monday, April 21, 2008 7:00 PM

1. Call to Order
2. Pledge of Allegiance
3. Personal Appeals, Part I
4. Reading of Minutes

April 7, 2008
5. Decision on Bids
6. Communications
  - a. Lincoln Elementary School PTO – Annual Festival, May 21, 2008
  - b. Shops of Emmaus – Permit for Sidewalk Sales, May 3 & 4, 2008
  - c. Jenae Holtzhafer – Smoking in our Parks
  - d. Adam Kita, 815 Frank Drive, Emmaus – Skate Board Park
  - e. Kiley Schlosser, 4510 South Mtn. Drive, Emmaus – Tree on the Triangle
  - f. Drew Phillipps, 3744 Leah Drive, Emmaus – Ice Rink on Williams St.
  - g. Kendra Wise, 1107 Little Lehigh Dr. South, Emmaus – Sidewalks
  - h. Isaiah Zukowski, 840 Chestnut St., Emmaus – Unsafe Field
7. Borough Engineer's Report
8. Solicitor's Report
  - a. **Ordinance No. 1028** – Repealing Ordinance 989 of Chapter 21, Part 4 of the Codified Ordinances of the Borough of Emmaus and Providing for the Implementation of a New Ordinance Governing the Installation, Construction and Maintenance of Sidewalks, Curbs, Handicap Ramps and Driveway Crossovers throughout the Borough of Emmaus (**First Reading 4/21/08**)
  - b. **Ordinance No. 1041** - Amending Chapter 26, Sections 105 and 106, of the Codified Ordinances, Dealing with the Water Rate Schedule and the Billing and Collection Procedures for the Borough of Emmaus, Pennsylvania (**First Reading 4/21/08**)
9. New Business

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10. Unfinished Business
11. Items Not on Agenda, Subject to Rule 6
12. Mayor's Report
13. Committee Reports

**Public Works/(Highway, Water & Sewer)** (Labenberg, Neely, Waddell)

1. Committee
2. Solicitor
  - a. **Sidewalk Standards**

**Health and Sanitation** (Holtzhafer, Labenberg, Brown)

1. Committee
2. Solicitor

**Parks and Recreation** (Barrett, Labenberg, Holtzhafer)

1. Committee
  - a. Raven Mill Property Swap
  - b. Furnace Dam Geese Problem – (Tabled 3/3/08)
  - c. Skate Park
  - d. **Hiring of Summer Playground Employees**
  - e. **Hiring of Two Lifeguards**
2. Solicitor

**Public Safety** (Gilbert, Barrett, Brown)

1. Committee
  - a. Outdoor Fires
  - b. Request for Two-Hour Parking Signs on Macungie Ave. on East/West Side between Chestnut and Green Streets - (Tabled 4/7/08)
  - c. **Police Personnel**
  - d. **Fifteen Minute Parking on Macungie Avenue**
  - e. **Request from Soap Box Derby – Waive Fee**
  - f. **Hiring of Jeff Knopf (PT Paramedic) (\$16.77 per hour)**
2. Solicitor

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**General Administration** (Neely, Gilbert, Barrett)

1. Committee
  - a. Historical Building Ordinance
2. Solicitor

**Budget and Finance** (Waddell, Gilbert, Holtzhafer)

1. Committee
  - a. **2008 CDBG Application (Resolution - 12)**
  - b. Main Street Budget Request - (Tabled 4/7/08)
  - c. **Bill List (Resolution - 13)**
2. Solicitor

**Community Relations/Development** (Brown, Waddell, Neely)

1. Committee
  - a. Downtown Master Plan
  - b. **Web Page Update**
  - c. **RFP for Southside Industrial Master Plan**
2. Solicitor

**Ad Hoc Committees** (Holtzhafer, Gilbert, Barrett, Fosselman, Mayor Iobst)

Community/School Relations

14. Personal Appeals, Part 11
15. Borough Manager's Report
  - a. Significant Revenue and Expense Items for First Half of April 2008
  - b. Manager's Report
16. President's Business

Executive Session – Personnel Issue
17. Adjournment

Next Resolution #14  
Next Ordinance #104

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EMMAUS BOROUGH COUNCIL

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The Emmaus Borough Council met in regular session on April 21, 2008 in Borough Council Chambers, 28 S. 4<sup>th</sup> Street, Emmaus, PA 18049.

CALL TO ORDER

Council President Waddell called the meeting to order at 7:00 p.m.

Michael Waddell, President	Present
Craig Neely, Vice-President	Absent
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

PERSONAL APPEALS, PART I

**A. Otto Slozer 121 E. Elm St.** expressed his support for the Police Chief's request for another full time officer. He said there are many signs of gangs in the Emmaus community. Mr. Slozer understands concerns for the budget, but urged Council to help the Police Chief and support the District Attorney to get a handle on the problem before it becomes extremely difficult. President Waddell said this issue will be discussed later and that the budget was past last year with an additional officer.

READING OF MINUTES

**Motion by Council Member Barrett, seconded by Council Member Labenberg to dispense with the formal reading of the April 7, 2008 minutes. There were 6 ayes. Motion carried.**

**Motion by Council Member Brown, seconded by Council Member Gilbert to adopt the April 7, 2008 minutes as drafted. There were 6 ayes. Motion carried.**

DECISION ON BIDS

None

COMMUNICATIONS

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- a. Lincoln Elementary School PTO – Annual Festival, May 21, 2008. Request for street closures. Referred to Staff.
- b. Shops of Emmaus – Waive permit fee for sidewalk sales, May 3 & 4, 2008.

**Motion by Council Member Labenberg, seconded by Council Member Brown to waive the permit fee for Shops of Emmaus Sidewalk Sales on May 3 and 4, 2008.**

Council Member Holtzhafer asked who ‘Shops of Emmaus’ was. Borough Manager Fosselman said its 7-9 merchants who formed a small group and are located close to each other. Council Member Barrett confirmed that the event will be promoted, which is why they requested to waive the fee. He’s concerned that this group is competing with the Main Street Program, but Mr. Fosselman said that some of the businesses belong to both organizations.

**There were 5 ayes, 1 opposed (Barrett). Motion carried.**

- c. Jenae Holtzhafer – Smoking in Borough parks. Included was another letter with the same concern from Leslie Shotwell. Referred to the Park and Recreation Committee.
- d. Adam Kita, 815 Frank Drive, Emmaus – Skateboard Park. Referred to the Park and Recreation Committee.
- e. Kiley Schlosser, 4510 South Mountain Drive, Emmaus – Tree on the Triangle. Referred to Staff.
- f. Drew Phillippe, 3744 Leah Drive, Emmaus – Requesting a hockey net at the ice rink on Williams St. Referred to the Park and Recreation Committee.
- g. Kendra Wise, 1107 Little Lehigh Dr. South, Emmaus – Requesting sidewalks. Referred to Staff.
- h. Isaiah Zukowski, 840 Chestnut St., Emmaus – Unsafe field behind the 800 block of Chestnut Street. Borough Manager Fosselman stated that the dirt pile was placed legally. Referred to the Zoning Officer.
- i. Pam Balleron, 117 S. 11<sup>th</sup> Street – Smoking in Borough parks. Referred to the Park and Recreation Committee.
- j. Jeffrey Clapper, Public Works Director – Expenses involved with the Soapbox Derby.

BOROUGH ENGINEER’S REPORT

None

SOLICITOR’S REPORT

**Motion by Council Member Barrett, seconded by Council Member Brown to read Ordinance No. 1028 in short title. There were 6 ayes. Motion carried.**

President Waddell read Ordinance No. 1028 in short title: An Ordinance repealing Ordinance 989 of Chapter 21, Part 4 of the Codified Ordinances of the Borough of Emmaus and Providing for the Implementation of a New Ordinance Governing the Installation, Construction and Maintenance of Sidewalks, Curbs, Handicap Ramps and Driveway Crossovers Throughout the Borough of Emmaus.

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**Motion by Council Member Labenberg, seconded by Council Member Barrett to adopt Ordinance No. 1028 on its 1<sup>st</sup> Reading.**

Council Member Labenberg pointed out five specific additions/changes made: Pedestrian Connectivity, allowing 30 days for an appeal, an appeal process, standards and a time limit for sidewalk installation. Council Member Barrett confirmed with Mr. Labenberg that this affects the individuals involved with the lawsuit, which is approximately 30 properties. Council Member Holtzhafer confirmed that these individuals will need to go through the appeal process or install sidewalk. Regarding the appeal procedures, Solicitor Procyk stated that Council will now be involved with a mini-zoning hearing through the Public Works Committee that includes an engineering review. The formal hearing will be recorded and the engineering review will become part of the record, along with evidence presented by the exemption applicant. Mr. Holtzhafer confirmed that all affected individuals will be notified after the ordinance passes on the second reading. He's concerned that property owners will not be financially prepared to install sidewalk by January 2009. Mr. Labenberg said that the original ordinance allowed 90 days, but this ordinance allowed 4 years to budget for the installation of sidewalk; all residents were notified in 2005 and whether they filed for an exemption or not they had four years to budget for the sidewalk. President Waddell confirmed that if the resident does not have the sidewalk installed by January 2009, then the Borough would contract the job and bill the homeowner or a lien is filed against the home. He suggested that Budget and Finance discuss the costs involved for the Borough to pay the contractor. Council Member Barrett confirmed that the previous exemptions granted will remain exempted and the same with the deferrals that were granted. Mr. Holtzhafer confirmed that the ordinance requires sidewalk on both front and side yards for corner properties. He requested a list of the properties that this involves so that he can visit each property. Council Member Brown suggested splitting the cost with the residents 50/50 due to the high cost involved. Mr. Labenberg said that it has always been the property owner's responsibility and that 90% of Borough residents have paid to have their own sidewalk; helping others to pay for it now will open a can of worms. Dr. Waddell said sidewalk increases property values. Council Member Barrett asked if there was anything in the ordinance that will prevent a lawsuit. Solicitor Procyk said that nothing can prevent a lawsuit, but it would be different if there would not be exempted areas. Mr. Holtzhafer said that Part 401(d) and 401(e) of the ordinance contradict each other. These two sections were from the old ordinance and were not changed. Borough Manager Fosselman said that even though an area is exempted the property owner may choose to install sidewalk, but then the ordinance requires them to maintain the sidewalk. Mr. Holtzhafer confirmed that the construction data was reviewed by the Borough Engineer. Council Member Gilbert confirmed with Mr. Labenberg that there is grant money available for low-moderate income residents and that letters were sent to property owners suggesting that they contact the County about the grant. Mr. Holtzhafer is in favor of the sidewalk ordinance, but is concerned with the cut-off date. He also would like to see a Borough map with the exempted areas highlighted.

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

**Motion by Council Member Labenberg, seconded by Council Member Gilbert to read Ordinance No. 1041 in short title. There were 6 ayes. Motion carried.**

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President Waddell read Ordinance No. 1041 in short title: An Ordinance Amending Chapter 26, Section 105 and 106, of the Codified Ordinances, Dealing with the Water Rate Schedule and the Billing and Collection Procedures for the Borough of Emmaus, Pennsylvania

**Motion by Council Member Labenberg, seconded by Council Member Gilbert to adopt Ordinance No. 1041 on its 1<sup>st</sup> Reading.**

Council Member Labenberg said that the section relating to over due bills was changed. Previously the ordinance allowed for 60 days after the first 10% penalty was added, but then that overlapped for the next quarterly billing. Solicitor Procyk added that this will help the process for the water being discontinued for lack of payment.

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

Progress

NEW BUSINESS

None

UNFINISHED BUSINESS

None

ITEMS NOT ON AGENDA, subject to Rule 6

None

MAYOR'S REPORT

Progress

COMMITTEE REPORTS

a. Public Works Committee

The Committee met on April 9<sup>th</sup>. Council Member Labenberg said that the personal appeal made by Tony Groller concerning Public Works employees changing oil in their personal vehicles in the Borough garage was investigated and found to be false. He requested that when these types of personal appeals are made that the Council President ask for proof of the allegation.

Progress

b. Health and Sanitation Committee

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Council Member Holtzhafer reported that the Earth Day Cleanup was very successful with over 140 volunteers and that the visibility of the cleanup was fantastic. He said it was a great community event and commended Mr. Clapper for all the work he put into it and organizing the event. Council Member Barrett said that this was the third year for this event and that every year there are notably more participants. He said that the event was well organized and asked to have a thank you letter sent to Mr. Clapper and the Environmental Advisory Council. Council Member Labenberg said that his wife was amazed with the participation and the amount of trash that was collected. Mr. Barrett is interested in finding a way to recycle some of the trash collected.

Council received a letter from Code Enforcement Officer, Jim Farnsworth, regarding the Broad Street Saloon. The past few months there has been a continuous garbage problem with large amounts of trash placed around the dumpster; the dumpster is not large enough to accommodate the amount of tenants. Mr. Farnsworth has cited the property owners, but the problem persists. Mr. Farnsworth is requesting that the Mayor declare the property a public nuisance and then every time the problem occurs, along with citing the property owners, he can do something about it. Council Member Holtzhafer said that currently the dumpster is filled and there are about 20 garbage bags on the ground around the dumpster. Borough Manager Fosselman will hold a meeting with Mr. Farnsworth and the Mayor.

Council Member Holtzhafer said there is an environmental electrician who would like to meet with the Committee and Jeff Clapper to show the Borough ways to decrease electrical usage. Council Member Labenberg confirmed that there was no fee for the advice.

Regarding the outdoor burning complaint, Council Member Holtzhafer said that it seems to be a neighborhood issue and the person that does the burning has their house up for sale.

Progress

c. Parks and Recreation Committee

**Motion by Council Member Barrett, seconded by Council Member Labenberg to hire Andrew McLeod, Erin Antrim, William St. John, Kelly Nonnemacher, and Travis Balleron as Summer Playground Employees from June 23, 2008 to August 1, 2008 at \$7.40/hr. There were 6 ayes. Motion carried.**

**Motion by Council Member Barrett, seconded by Council Member Labenberg to hire Roxanne Rieder and Joseph Munley as part time Lifeguards and Corey Horn as a Cashier at \$7.15/hr. There were 6 ayes. Motion carried.**

The next Committee meeting is May 6<sup>th</sup>.

Progress

d. Public Safety Committee

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**Motion by Council Member Gilbert, seconded by Council Member Barrett to hire Jeffrey Knopf as a part time Paramedic at \$16.70/hr.**

Council Member Holtzhafer asked how many employees were with the Ambulance Department. Borough Manager Fosselman said there are eight full time employees who work twelve hour shifts and then part time employees fill in throughout those shifts as needed. Mr. Holtzhafer confirmed with Mr. Fosselman that this complies with the budget. Council Member Barrett said that most of the part time employees work for other ambulance services.

**There were 6 ayes. Motion carried.**

**Motion by Council Member Gilbert, seconded by Council Member Barrett to accept the resignation of full time paramedic, Shawn Kane. There were 6 ayes. Motion carried.**

Council Member Gilbert read a memo from Police Chief Faust announcing that the Department was awarded an \$85,000 grant from Lehigh County for a new Records Management System called CODY. Council Member Labenberg learned at a County Commissioners meeting that eventually CODY will link the entire state of Pennsylvania, and maybe even interstates together to share crime records.

Regarding a sign that was removed on Macungie Avenue because it was not covered under an ordinance, the Committee heard an appeal from Bill Caserta, owner of Business Services on Chestnut Street, requesting to re-install the 15 minute parking sign.

**Motion by Council Member Gilbert, seconded by Council Member Labenberg for a 90-day trial to install a 15-minute parking zone on the west side of Macungie Avenue, 100 feet south of Green Street.**

Council Member Labenberg suggested it should be measured from a main street; Chestnut Street. Council Member Holtzhafer confirmed with Council Member Gilbert that this is a different situation then the tabled two-hour parking zone request on Macungie Avenue. Council Member Barrett asked if the two-hour parking request should be taken off of the table first before approving this, but Ms. Gilbert said the individuals with that request are coming to the next Committee meeting.

**There were 5 ayes, 1 opposed (Brown). Motion carried.**

President Waddell read a memo from Public Works Director, Jeff Clapper, explaining that the Soapbox Derby would cost \$68.75 in Public Works employee expenses to cover the event. The Public Works Department provides community services for many other events that do not pay for any support. Borough Manager Fosselman said the fee schedule must be reviewed because it does not reflect a fee for these types of events. Council Member Holtzhafer feels that a non-profit organization should not be charged a fee for an event. Mr. Fosselman said the resolution states that non-profit organizations are exempt.

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**Motion by Council Member Gilbert, seconded by Council Member Holtzhafer to waive the fee to hold the Soapbox Derby. There were 6 ayes. Motion carried.**

**Motion by Council Member Gilbert, seconded by Council Member Barrett to remove from the table the Police Chief's request to hire a full time Police Officer.**

Council Member Labenberg requested to keep this item tabled until there is a full Council to discuss it.

**There were 5 ayes, 1 opposed (Labenberg). Motion carried.**

The Committee recommends hiring a full time officer, which will be reflected in the budget next year.

**Motion by Council Member Gilbert, seconded by Council Member Barrett to hire a full time Police Officer that will attend the Police Academy in July 2008.**

Council Member Holtzhafer would like to see added to the motion the fact that the number of part time Police Officers will be kept at three or under for the remainder of 2008 and 2009.

**Council Member Gilbert amended her motion and Council Member Barrett amended his seconded motion to keep the number of part time Police Officers at three.**

Council Member Labenberg stated that he is not against hiring this officer, but he does not feel comfortable voting on this without knowing if the County will pay for the Drug Task Force officer. Mr. Labenberg spoke with Don Cunningham and his assistant, who said that they are open to the fact of finding funding for a Drug Task Force Officer from municipalities. Mr. Labenberg also spoke to three County Commissioners, who did not know that municipalities were paying for the officers. Mr. Labenberg supports sending an officer to the Task Force, but said that it is a County program that should be funded by the County, not the Borough. He suggested that Council write a letter to the County requesting that they fund the Task Force Officer. Council Member Brown confirmed that the money to pay for the full time officer will come from the part time officer and overtime line items. Mr. Labenberg agreed that it will not affect this year's budget, but said with benefits and raises, it affects future budgets. Council Member Holtzhafer said that this is for public safety and he cannot say no to it. Council Member Barrett said that he is in favor of an additional officer after hearing numerous residents supporting the District Attorney's presentation. Council Member Brown agrees that a letter should go to Lehigh County requesting funding for a Drug Task Force Officer. President Waddell expressed his appreciation to Mr. Labenberg for contacting the County and agrees that the Borough should request County funding, but he still is in favor of this motion. Don Cunningham also told Mr. Labenberg that the District Attorney never asked the County to fund this program. Until the County agrees to pay for the Task Force Officer, Mr. Labenberg does not feel comfortable hiring another officer. Mr. Brown doesn't feel there is time to wait on a decision by the County.

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**There were 5 ayes, 1 opposed (Labenberg). Motion carried.**

**Motion by Council Member Gilbert, seconded by Council Member Barrett to request from the Civil Service Commission a list of the top three names from their eligibility list for consideration. There were 6 ayes. Motion carried.**

The Committee discussed sending an officer to the County Drug Task Force and does not feel it's necessary for another presentation by the District Attorney; the original presentation can be viewed on the Borough website.

**Motion by Council Member Gilbert, seconded by Council Member Barrett to assign a Police Officer to the Lehigh County Drug Task Force.**

Council Member Labenberg requested to wait until a decision is made by the County Commissioners to fund the officer. He said that if this is approved, it will look like the Borough is willing to fund it, and then there is no incentive for the County to fund it. Council Member Holtzhafer confirmed with Council Member Gilbert that this officer would be sent to the Task Force in January 2009 and that the Department will be fully staffed before the officer is sent. Ms. Gilbert said that the previous Council added the wages in the budget, which specifically stated that the officer was for the County Drug Task Force. President Waddell added that, when approving the 2008 budget, Council Member Labenberg made a motion to remove that item, but died from a lack of a second. Ms. Gilbert said that in January 2008 the new Council had the opportunity to open the budget, but did not. Mr. Labenberg agreed, but said it was two separate issues; Council did not vote to sign the agreement with the County. Ms. Gilbert said that because of staffing, the Borough is still not in a position to enter the agreement. Council Member Barrett asked if this vote was necessary. The vote is showing that the current Council is interested. Mr. Labenberg confirmed with Solicitor Procyk that after this vote, Council can still vote on not signing the agreement with the Task Force. Mr. Barrett said that this vote means nothing without a contract to sign.

**Council Member Barrett rescinded his seconded motion**

Council Member Holtzhafer feels that the statement needs to be made so that Chief Faust knows if the District Attorney needs to give a presentation again or not.

**Council Member Holtzhafer seconded the motion. There were 5 ayes, 1 opposed (Labenberg). Motion carried.**

Council Member Labenberg requested that a notification be sent to auto dealers regarding driving on the street without a dealer tag on the car. He also asked for the police to patrol Furnace Dam. There were two benches thrown into Furnace Dam, garbage bags thrown under the bridge and vandalism to the bathhouse.

Progress

- e. General Administration Committee

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The next meeting is April 22<sup>nd</sup> at 9 a.m.

Progress

f. Budget and Finance Committee

As part of the grant proposal to Lehigh County, Borough Manager Fosselman read Resolution 2008-12 stating that the Borough will be applying for two projects from the Community Development Block Grant (CDBG) Program; \$50,000 for Emmaus Triangle Park Project and \$37,037.50 for the removal of architectural barriers on certain sidewalks.

**Motion by Council Member Gilbert, seconded by Council Member Holtzhafer to adopt Resolution 2008-12.**

Council Member Holtzhafer confirmed with Borough Manager Fosselman that the architectural barriers refer to the handicap curb cuts. Council Member Labenberg confirmed with Mr. Fosselman that the curb cuts needed have been designated for this year. Mr. Labenberg said that there is one corner at State Rd. and Harrison St. that needs a handicapped ramp.

**There were 6 ayes. Motion carried.**

**Motion by Council Member Gilbert, seconded by Council Member Holtzhafer to adopt the April 21, 2008 Bill List.**

<b>Bill List</b>	<b>\$ 175,991.30</b>
<b>Payroll #8</b>	<b>\$ 109,072.99</b>
<b>Payroll Taxes</b>	<b>\$ 35,168.64</b>
<b>Total</b>	<b>\$ 320,232.93</b>

**Done this 21<sup>st</sup> day of April 2008. There were 6 ayes. Motion carried.**

Progress

g. Community Relations/Development Committee

Council Member Brown announced that Trifecta will be designing the new web page.

The Committee will be reviewing the bid for the Southside Industrial Master Plan on April 23<sup>rd</sup> at 4 p.m.

Progress

h. Ad Hoc Committees

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Community School Relations

Council Member Holtzhafer spoke to Officer Troy Schantz regarding the school resource officers. A meeting will be scheduled with the school to discuss this issue and the Committee will meet 15 minutes prior to the meeting.

Progress

PERSONAL APPEALS, PART II

- A. **Jo Sadrovitz 130 N. 4<sup>th</sup> St.** requested that something be done with 643 Chestnut Street. Both the front and the rear of this property are in terrible condition. Weed/Grass Enforcement Officer, Jim Woodeshick, has already spoken to the property owners and said that currently the property is in compliance with his department. President Waddell referred this to the Zoning Officer.
- B. **Otto Slozer 121 E. Elm St.** thanked Council for voting on the Drug Task Force Officer. He feels that there could have been a problem if that vote was not taken (i.e. if the officer was injured on the job with the County).

BOROUGH MANAGER'S REPORT

Progress

PRESIDENT'S BUSINESS

President Waddell said that the BoroLine bathroom project looks good and that the Public Works Department did a great job.

President Waddell announced the one year anniversary of broadcasting the Council meetings on the web and television. There has been a lot of positive feedback from it. Council Member Labenberg and Dr. Waddell are amazed that other municipalities have not done the same.

ADJOURNMENT

**Motion by Council Member Labenberg, seconded by Council Member Barrett to adjourn. There were 6 ayes. Motion carried.**

The meeting of the Emmaus Borough Council adjourned at 8:51 p.m.

Bruce Fosselman  
Borough Manager

Transcribed by: Renea Flexer  
Administrative Assistant  
April 25, 2008