

June 16, 2008

EMMAUS BOROUGH COUNCIL

Emmaus Borough Council
Agenda
Monday, June 16, 2008 7:00 PM

1. Call to Order
 - a. Swearing in of New Police Officer, Nathan Bordner
2. Pledge of Allegiance
3. Personal Appeals, Part I
4. Reading of Minutes

June 2, 2008
5. Decision on Bids
6. Communications
 - a. Alan Hawman, Board President, Friends of the 1803 House – Thank You for Contribution
 - b. Nate Andrews, St. John’s Lutheran Church Council Vice President – Request to Close Street for Annual Church Picnic
 - c. Wayne Schlegel – Zoning Board Resignation
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 (1st Reading 6/16/08)**
 - b. **Ordinance No. 1033 – An Ordinance Amending Chapter 7, Section 102 Dealing with Exceptions to Prohibited Outdoor Fires (1st Reading 6/2/08) (2nd Reading 6/16/08)**
 - c. **EYA Storage Shed Agreement**
9. New Business
10. Unfinished Business

June 16, 2008

EMMAUS BOROUGH COUNCIL

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**

b. **Approval of \$5,000 Threshold for Minor/Major Accidents**

c. **Auto Dialing**

Health and Sanitation (Holtzhafer, Labenberg, Brown)

1. Committee

2. Solicitor

Parks and Recreation (Barrett, Labenberg, Holtzhafer)

1. Committee

a. Raven Mill Property Swap

b. Skate Park

c. Park Comp Plan

d. **Storage Shed at Kiwanis Street Field**

e. **Monetary Donation by EYA – Chris DeFrain**

f. **No Smoking at Parks**

2. Solicitor

Public Safety (Gilbert, Barrett, Brown)

1. Committee

a. **Ordinance No. 1033 – Exceptions to Prohibited Outdoor Fires (1st Reading 6/2/08) (2nd Reading 6/16/08)**

b. Request for Two-Hour Parking Signs on Macungie Ave. on East/West Side between Chestnut and Green Streets – (Tabled 4/7/08)

c. Fifteen Minute Parking on Macungie Avenue (90 Day Trial – 7/21/08)

d. Street Lighting Request - Triangle

e. Request for Permit Parking – 600 Block of Pine Street

f. **Hire New Volunteer Fire Department Member**

2. Solicitor

June 16, 2008

EMMAUS BOROUGH COUNCIL

General Administration (Neely, Gilbert, Barrett)

1. Committee
 - a. Historical Building Ordinance
 - b. Email Correspondence
2. Solicitor

Budget and Finance (Waddell, Gilbert, Holtzhafer)

1. Committee
 - a. **Bill List (Resolution – 18)**
2. Solicitor

Community Relations/Development (Brown, Waddell, Neely)

1. Committee
 - a. Downtown Master Plan
 - b. Web Page Update
 - c. Southside Industrial Master Plan
 - d. Triangle Park Construction – Choosing Options
 - e. 2009 Anniversary Celebration
 - f. Jr. Council Members
 - g. Emmaus Arts Commission
2. Solicitor

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

Community/School Relations

14. Personal Appeals, Part II
15. Borough Manager's Report
 - a. Significant Revenue and Expense Items for First Half of June 2008
 - b. Park & Rec. Comp Plan Update
 - c. Right to Know Law Seminar
16. President's Business
17. Adjournment

Next Resolution #19
Next Ordinance #1042

June 16, 2008

EMMAUS BOROUGH COUNCIL

The Emmaus Borough Council met in regular session on June 16, 2008 in Borough Council Chambers, 28 S. 4th 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	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

CEREMONY

Mayor Iobst swore in Nathan Bordner as a new Police Officer. Police Chief Faust welcomed Mr. Bordner, who will enter into the Police Academy on July 7th. Mr. Bordner has a Bachelor Degree in criminal justice and was a Domestic Relations Enforcement Officer in Cumberland County.

ANNOUNCEMENT

President Waddell would like to add "Community Minute" on the agenda, before Personal Appeals. Community Minute is to announce needs in the community. General Administration will review this suggestion.

Volunteers Needed – The Flag Day Association
2009 Celebration Committee, Co-Leader for train excursion

Council Member Holtzhafer volunteered to be on the Flag Day Association.

PERSONAL APPEALS, PART I

- A. Tony Groller 1302 S. 10th St.** commended the Flag Day Association for the events this past weekend. He reported that the flag is not up at the turn around at the park. He also said that the Borough has always cut the grass along S. 10th Street, but is now the property owner's responsibility. Mr. Groller asked why the Public Works employees cut the grass at the turnpike underpass at 16th Street. Council Member Holtzhafer said that 16th Street is a turnpike right-of-way and S. 10th Street is private property. President

June 16, 2008

EMMAUS BOROUGH COUNCIL

Waddell referred this to James Woodeshick, Enforcement for grass and weeds, and agrees that the Borough should not be cutting grass on private property.

READING OF MINUTES

Motion by Council Member Neely, seconded by Council Member Barrett to dispense with the formal reading of the June 2, 2008 minutes. There were 7 ayes. Motion carried.

President Waddell pointed out on page 90; the second sentence under President's Business should read "with no official action needed". Minutes corrected.

Motion by Council Member Labenberg, seconded by Council Member Holtzhafer to adopt the June 2, 2008 minutes with correction. There were 6 ayes, 1 abstained (Waddell was absent). Motion carried.

DECISION ON BIDS

None

COMMUNICATIONS

- a. Alan Hawman, Board President, Friends of the 1803 House – Thank you for contribution
- b. Nate Andrews, St. John's Lutheran Church Council Vice President – Request to close Perkiomen Street for annual church picnic. Referred to Mayor.
- c. Wayne Schlegel – Zoning Hearing Board resignation.

Motion by Council Member Gilbert, seconded by Council Member Neely to accept Wayne Schlegel's resignation from the Zoning Hearing Board.

Council Member Neely stated that the motion is made with regret and that Mr. Schlegel has made an incredible contribution to the Borough by providing insight and wisdom to the Zoning Hearing Board. Council thanked Mr. Schlegel for his many years of service. President Waddell said that Mr. Schlegel was always a gentleman and that he learned a lot from him.

There were 7 ayes. Motion carried.

The vacancy on the Zoning Hearing Board will be advertised.

BOROUGH ENGINEER'S REPORT

None

SOLICITOR'S REPORT

Solicitor Procyk drafted an agreement with the Emmaus Youth Association (EYA) for a storage shed. Council Member Barrett said EYA would like a storage shed at the Kiwanis baseball field to store equipment and a tractor that is used to drag the fields. The Parks and Recreation Committee recommend approving the shed and placement was determined by the

June 16, 2008

EMMAUS BOROUGH COUNCIL

Public Works Director. Council will review the agreement before submitting to EYA. Council Member Neely suggested adding that EYA will provide sufficient casualty insurance. Council Member Brown confirmed that the placement area in the agreement was approved by Jeff Clapper. Council Member Labenberg suggested that the style of the shed also be approved. Mr. Barrett said that in the future the shed may be replaced by a more permanent structure.

Motion by Council Member Labenberg, seconded by Council Member Barrett to direct the Solicitor to forward the Shed Agreement to Emmaus Youth Association. There were 7 ayes. 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

Motion by Council Member Labenberg, seconded by Council Member Brown to read Ordinance No. 1028 in short title for its 1st Reading. There were 7 ayes. Motion carried.

Council Member Labenberg 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

Council Member Labenberg reviewed the changes in the ordinance: a definition for pedestrian connectivity was added, Frank Drive was eliminated from the exemption list because it already has sidewalk, procedure was created for filing an exemption request, Section 401(c) (iv) was added, Section 401(c) (v) was revised, and the completion date was changed to November 1, 2010. The Public Works Committee unanimously agreed to add the Memorial Triangle to the exemption list. Solicitor Procyk said that the ordinance gives the option to individuals who were denied an exemption to come back before Council. The ordinance also provides certain criteria dealing with the exemption process. Regarding properties that are up for

June 16, 2008

EMMAUS BOROUGH COUNCIL

sale, Council Member Brown confirmed with Mr. Labenberg that it is up to the existing property owner to notify the buyer of the sidewalk decision. Council Member Holtzhafer confirmed with Mr. Labenberg that exemptions requested due to a tree are individually reviewed by the Public Works Committee. Mr. Holtzhafer asked if there should be tree standards so the Borough is not open to a lawsuit. Solicitor Procyk feels that the tree issue is dealt with as best as imaginable within the confines of an engineering issue. Section 404(k) deals with saving the tree by using tree plates, but if that is not feasible it will then be based upon engineering criteria, which is under Section 401(c). Mr. Holtzhafer said that the Shade Tree Commission can place a value on a tree based on size, age, etc. and feels that the ordinance does not have grounds to say which tree is worth keeping. Mr. Labenberg said that Council granted deferrals to certain properties with trees and when the trees die, those properties will be required to install sidewalk. Council Member Neely said that the north side of Broad Street between 7th and 10th Streets is deferred due to trees and confirmed with Solicitor Procyk that Council has the authority, not the Shade Tree Commission, to order sidewalk installation when those trees die. Mr. Holtzhafer has a problem voting for an ordinance that has been deemed unconstitutional and also because it states the intention is to connect all areas of the Borough, but there are main points that will not be connected. He feels that Little Lehigh Acres should not be exempt. Mr. Neely said that because prior Borough staff and Council did not enforce the old ordinance, this new ordinance is to connect all areas of the Borough, not every property in the Borough.

Motion by Council Member Labenberg, seconded by Council Member Neely to adopt Ordinance No. 1028 on its 1st Reading. Roll Call Vote: Labenberg aye, Holtzhafer nay, Barrett aye, Brown nay, Neely aye, Gilbert aye, Waddell aye. Motion carried.

The Committee, along with the Public Works Director and Local Union 773, recommend changing the amount for major and minor accidents from \$2,000 to \$5,000 under Section 1A & 1B of the Rules and Safety Regulations for Conduct by Non-Supervisory Employees.

Motion by Council Member Labenberg, seconded by Council Member Neely to change the amount from \$2,000 to \$5,000 under Section 1A and 1B in the Rules and Safety Regulations for Conduct by Non-Supervisory Employees.

The last time this amount was amended was 1993. Council Member Holtzhafer confirmed that this change was an employee handbook for rules and safety regulations for non-supervisory employees. Council Member Barrett confirmed that this handbook is different than the employee handbook revised last year.

There were 7 ayes. Motion carried.

Council Member Labenberg presented an agreement with OneCall Now from Troy, Ohio for an auto dialing system. He explained that the government is requiring the Borough to have an auto dialing system for water emergencies, but can also be used for other notifications. The system can send notifications to specific streets or areas. The Committee voted 2-1 (Neely opposed) for the agreement. Committee Member Neely would like a one year contract instead of a 3 year contract. Mr. Labenberg said that a 3 year agreement offers the 4th year free. There is a \$1,000 set up fee and \$699 per year for 5,000 calls. Council Member Neely stated that he voted against the agreement because he did not have it to review. After reviewing the agreement, he

June 16, 2008

EMMAUS BOROUGH COUNCIL

pointed out #9 Miscellaneous should be changed that disputes shall be in the courts of Lehigh County, PA. Mr. Neely is also concerned about the \$1,200 for travel expenses for onsite training and installation and feels that the Committee should discuss paying actual expenses. Council Member Barrett confirmed with Borough Manager Fosselman that the auto dialing system is in addition to the yearly water report that is mailed. Council Member Holtzhafer asked if there were competitive companies. Mr. Fosselman said Code Red would cost \$7,500 per year and Rapid Alert was 75¢ per call, which is about \$3,500 a year. President Waddell said that Public Works Director, Jeff Clapper, looked into multiple companies and brought it to the Public Works Committee.

Motion by Council Member Neely, seconded by Council Member Labenberg to table the OneCall Now Agreement. There were 7 ayes. Motion carried.

Progress

b. Health and Sanitation Committee

Council Member Holtzhafer and Mr. Clapper are organizing the electric bills to determine where the most electricity is used and then will speak to an environmental electrician. He also said there is a grant available through DEP to help local governments develop greenhouse gas inventories and emission reduction plans. Mr. Holtzhafer would like the Joint Environmental Advisory Council (EAC) to look into this.

Motion by Council Member Holtzhafer, seconded by Council Member Barrett to refer the DEP grant information regarding greenhouse gas inventories and emission reduction plans to the Joint Environmental Advisory Council.

Council Member Barrett confirmed with Council Member Holtzhafer that the EAC will look into it and then will be before the Health and Sanitation Committee and Council before action is taken. Mr. Holtzhafer said that additional information can be found on the back of the Borough News Magazine.

There were 6 ayes, 1 opposed (Labenberg). Motion carried.

Council Member Brown spoke to a concerned citizen regarding no recycling containers at the parks. Both Council Members Barrett and Neely feel that it is a collection issue in keeping it separate; Public Works collects trash at the parks. Mr. Neely said this was discussed when the Borough looked into getting recycling containers for the Downtown. Both staff and the Health and Sanitation Committee will look into this.

Progress

c. Parks and Recreation Committee

The Borough received donations from Emmaus Youth Association (EYA) and Chris DeFrain totaling \$10,000 to crown four baseball fields. Public Works Director, Jeff Clapper, feels that amount of money would only cover two fields.

June 16, 2008

EMMAUS BOROUGH COUNCIL

Motion by Council Member Barrett, seconded by Council Member Labenberg to accept the donations from Emmaus Youth Association (EYA) and Chris DeFrain totaling \$10,000 to crown the Williams Street and Kiwanis baseball fields in October 2008 with the requirements that the EYA President should select a new contact person to handle the project directly with Jeff Clapper, an EYA representative be available during the week to help shoot the levels, EYA provide input prior to and during the project to insure the fields turn out to their liking, and EYA must schedule a Maintenance Day with Jeff Clapper. If both fields cannot be completed in October 2008, both fields will be worked on next year.

Council Member Holtzhafer confirmed with Council Member Barrett that the requirements come from the Committee meeting discussion and Mr. Clapper and also that the Public Works Department is capable of doing this project. President Waddell wondered why EYA asked Public Works to perform the work instead of bidding out the job. Mr. Holtzhafer said it's normally a job performed by Public Works, but the funding was not available. Mr. Barrett said that Mr. Clapper is looking for a lot of EYA involvement in the project to keep the fields sustainable.

There were 7 ayes. Motion carried.

Another appeal was heard at the Parks and Recreation Commission meeting regarding no smoking at the parks. The Parks and Recreation Committee are watching legislation, which may pass a smoking ban throughout the state in public places.

Council Member Barrett announced that the Parks and Recreation Commission is sponsoring "Emmaus Movie Night" at Community Park on June 25th at 8 p.m. Shrek Three will be playing.

Progress

d. Public Safety Committee

Motion by Council Member Gilbert, seconded by Council Member Brown to read Ordinance No. 1033 in short title on its 2nd Reading. There were 7 ayes. Motion carried.

Council Member Gilbert read Ordinance No. 1033 in short title: An Ordinance Amending Chapter 7, Section 102 Dealing with Exceptions to Prohibited Outdoor Fires.

Ms. Gilbert explained that Ordinance No. 1033 will allow chimineas and fire pits with screens. The ordinance also changes that the Fire Chief or his authorized designee may issue a citation for violations.

Motion by Council Member Gilbert, seconded by Council Member Brown to adopt Ordinance No. 1033 on its 2nd Reading.

Council Member Holtzhafer confirmed with Council Member Gilbert that the Ordinance is written for any future commercially manufactured recreational fireplaces because after the

June 16, 2008

EMMAUS BOROUGH COUNCIL

exception examples it states "etc." Council Member Barrett asked who the Fire Chief's designee would be and Ms. Gilbert said there is an established chain of command. Council Member Neely is voting against the ordinance because he feels it's an example of government trying to regulate something that individuals can resolve between themselves (for one or two issues) and also because the et cetera at the end of exception examples leaves it too open ended. Council Members Labenberg and Gilbert said that without this ordinance, burning a chiminea would be illegal and there is no enforcement in the current ordinance. Mr. Labenberg stated that he supports this ordinance because it creates guidelines. Council Member Brown suggested setting guidelines for what can be burned so that items like leaves are not burned. Council will rely on people using common sense. Mr. Holtzhafer confirmed with Ms. Gilbert that the exception for industrial incinerators was part of the original ordinance.

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

Motion by Council Member Gilbert, seconded by Council Member Brown to approve Joseph Scheland as a Jr. Firefighter contingent upon completion of a physical. There were 7 ayes. Motion carried.

Progress

e. General Administration Committee

Council Member Neely asked Borough Manager Fosselman to look into the Open Records Law with email issues, providing copies of un-adopted ordinances and more. The Committee will discuss this at the next meeting.

Progress

f. Budget and Finance Committee

Motion by Council Member Gilbert, seconded by Council Member Holtzhafer to adopt the June 16, 2008 Bill List.

Bill List	\$ 188,525.93
Payroll #12	\$ 109,937.70
Payroll Taxes	\$ 35,878.86
Total	\$ 334,342.49

Done this 16th day of June 2008. There were 7 ayes. Motion carried.

It will be advertised that the Committee will be meeting on July 23rd.

Council Member Labenberg suggested that the Police Chief keep track of the savings from the fuel saver device. Six devices were purchased and four were installed; the remaining two will be for new vehicles.

June 16, 2008

EMMAUS BOROUGH COUNCIL

Progress

g. Community Relations/Development Committee

Progress is being made with the web page and Council Member Brown said it should be up by next month.

At the July 7th Council meeting there will be a presentation for the Downtown Master Plan. An invitation letter will be sent to all the stakeholders.

Council will discuss the Triangle Park construction at the July 7th Council meeting.

The next meeting for the 2009 Anniversary Celebration is June 28th at 8:30 a.m. for the Steering Committee and 9:30 a.m. for the Project Teams.

Progress

h. Ad Hoc Committees

Community School Relations

Next meeting is scheduled for June 24th at 10 a.m. at Borough Hall. Discussions will include funding of the School Resource Officer and parking issues.

Progress

PERSONAL APPEALS, PART II

- A. Otto Slozer 121 E. Elm St.** stated that he is not in favor or opposed to the open air burning ordinance. He commented that Council's considering a smoking ban in open air parks, but then going to allow open air burning. Council Member Labenberg said there is a difference because one is on private property.
- B. Frank Sadrovitz 130 N. 4th St.** reported that a lot of dust was created in the pavilions from dragging the baseball field and that the hose is not long enough to wet the field beyond the pitcher's mound. Council Member Barrett said that the teams were notified to wet the field before dragging, but he will check into it further. Mr. Sadrovitz suggested that the garbage barrels not be allowed in the pavilions due to bees; referred to staff.

BOROUGH MANAGER'S REPORT

The Park and Recreation Comprehensive Plan, which includes Emmaus, Alburdis, Macungie, Upper Milford and Lower Milford, is coming to a completion. The plan will be emailed to Council Members. A public hearing will be held on July 14th at Macungie for citizens to review the final plan. After each community votes on the plan, application can be made to the county for money.

June 16, 2008

EMMAUS BOROUGH COUNCIL

Borough Manager Fosselman attended a seminar and part of it was regarding the Right to Know Law, which will be in effect December 31, 2008. There will be a uniform fee schedule, a common request form for public information, there will be a state board that will issue advisory opinions, annual training courses, there will be an appeal process, the Borough will have an Open Records Officer, and a five day time period will be set to respond to requests and can be extended to 33 days. There is a list of items that are not considered public record. Mr. Fosselman said that the Borough is ahead of the curve because a lot of the meetings and information is already available to the public.

Progress

PRESIDENT'S BUSINESS

President Waddell attended the Emmaus Sentinels practice and said that it was well attended and sounded great. The Sentinels were appreciative of the Matching Funds Grant.

President Waddell attended the Flag Day dinner and program and thanked the Flag Day Association for a job well done.

The Emmaus Main Street Program had a meeting last week for merchants regarding parking and the Police Chief attended to answer questions.

Progress

ADJOURNMENT

Motion by Council Member Labenberg, seconded by Council Member Brown to adjourn. There were 7 ayes. Motion carried.

The meeting of the Emmaus Borough Council adjourned at 8:33 p.m.

Bruce Fosselman
Borough Manager

Transcribed by: Renea Flexer
Administrative Assistant
June 24, 2008